



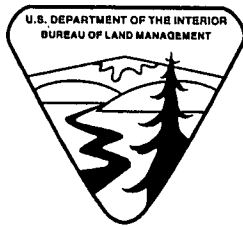
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Bureau of Land Management

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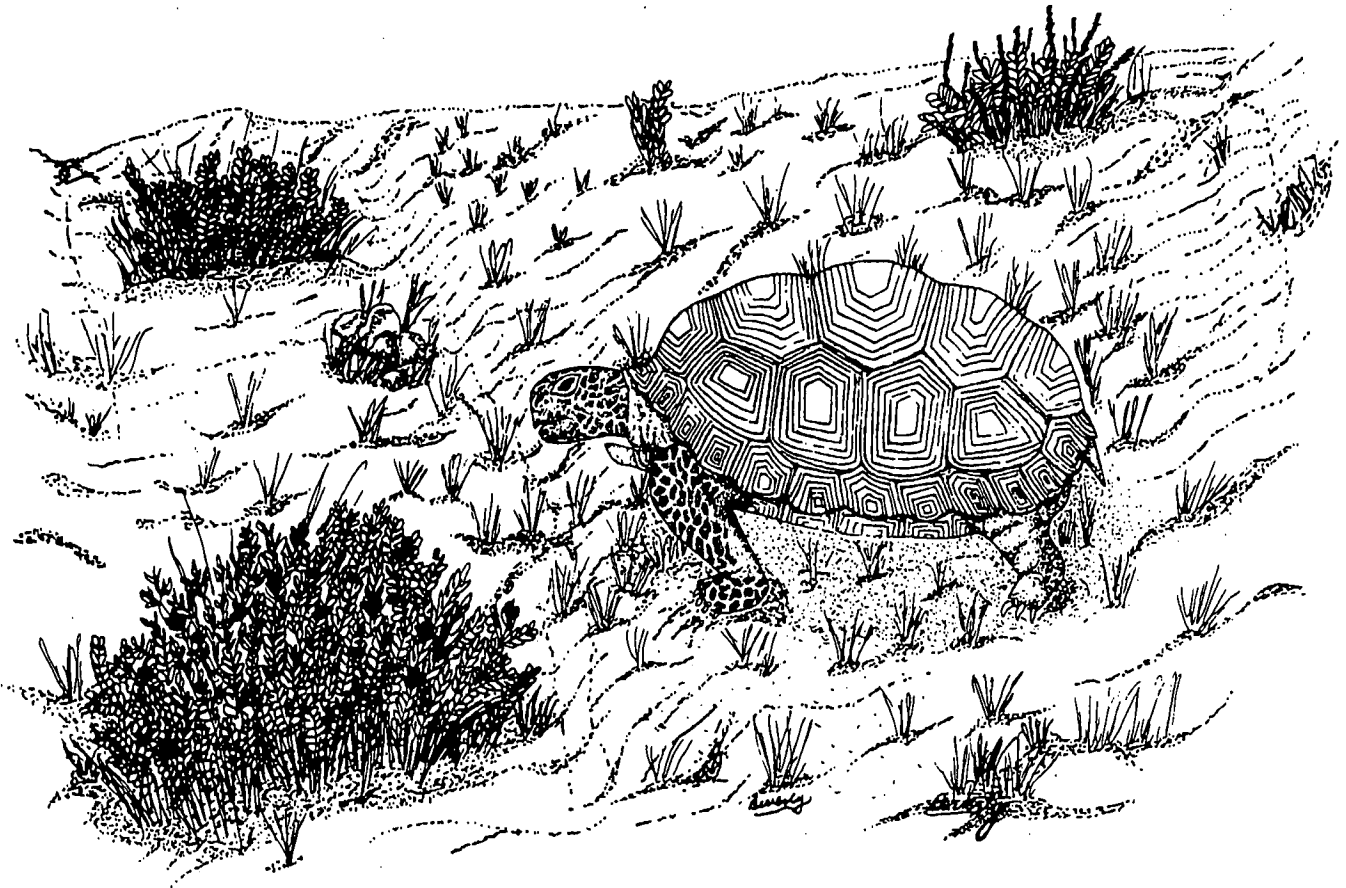
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Ely Field Office, Nevada

September 200
2000



Approved
Caliente Management Framework Plan
Amendment and
Record of Decision for the
Management
of Desert Tortoise Habitat



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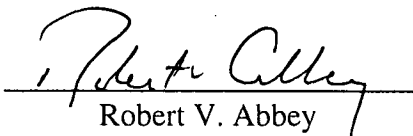
MISSION STATEMENT

The Bureau of Land Management is responsible for stewardship of our public lands. The BLM is committed to manage, protect and improve these lands in a manner to serve the needs of the American people. Management is based upon the principles of multiple use and sustained yield of our nation's resources within a framework of environmental responsibility and scientific technology. These resources include recreation, rangelands, timber, minerals, watershed, fish and wildlife habitat, wilderness, air and scenic quality, as well as scientific and cultural values.

APPROVED

CALIENTE MANAGEMENT FRAMEWORK PLAN
AMENDMENT FOR THE MANAGEMENT
OF DESERT TORTOISE HABITAT
AND
RECORD OF DECISION

Prepared by the
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ELY FIELD OFFICE


Robert V. Abbey
State Director, Nevada

September 19, 2000

The Approved Caliente Management Framework Plan Amendment and Record of Decision for the Management of Desert Tortoise Habitat outlines how 754,600 acres of public lands administered by the BLM's Ely Field Office will be managed to aid in the recovery of desert tortoise in a portion of Lincoln County. The Approved Plan Amendment brings the Caliente Management Framework Plan into conformance with the Desert Tortoise (Mojave Population) Recovery Plan.

For further information contact: Ely Field Office, Bureau of Land Management, 702 N. Industrial Way, HC 33, Box 33500, Ely, NV 89301-9408, or telephone (775) 289-1800.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Nevada State Office
P.O. Box 12000 (1340 Financial Blvd.)
Reno, Nevada 89520-0006
<http://www.nv.blm.gov>

In Reply Refer To:
1610
(NV-040)

SEP 19 2000

Dear Reader:

Enclosed for your information and use is the Approved Caliente Management Framework Plan Amendment and Record of Decision for the Management of Desert Tortoise Habitat. The Approved Plan Amendment outlines how 754,600 acres of public lands administered by the Bureau of Land Management's (BLM) Ely Field Office will be managed to aid in the recovery of desert tortoise. The decisions contained in the Approved Plan Amendment are those developed through the analysis in the *Proposed Caliente Management Framework Plan and Final Environmental Impact Statement for the Management of Desert Tortoise Habitat*. This Approved Plan Amendment and Record of Decision completes the planning and environmental process for development of this plan amendment.

This document is in two parts. Part I: Approved Plan Amendment, contains the management objectives and direction; implementation of the plan; plan monitoring and evaluation; consistency; and public availability. Part II: Record of Decision, contains the decision to select the proposed amendment; alternatives considered, including the environmentally preferable alternative; management considerations; mitigation and monitoring; public involvement; and approval.

Additional copies of this Approved Plan Amendment and Record of Decision may be obtained from the BLM Ely Field Office, 702 N. Industrial Way, HC 33, Box 33500, Ely, NV 89301-9408.

Sincerely,

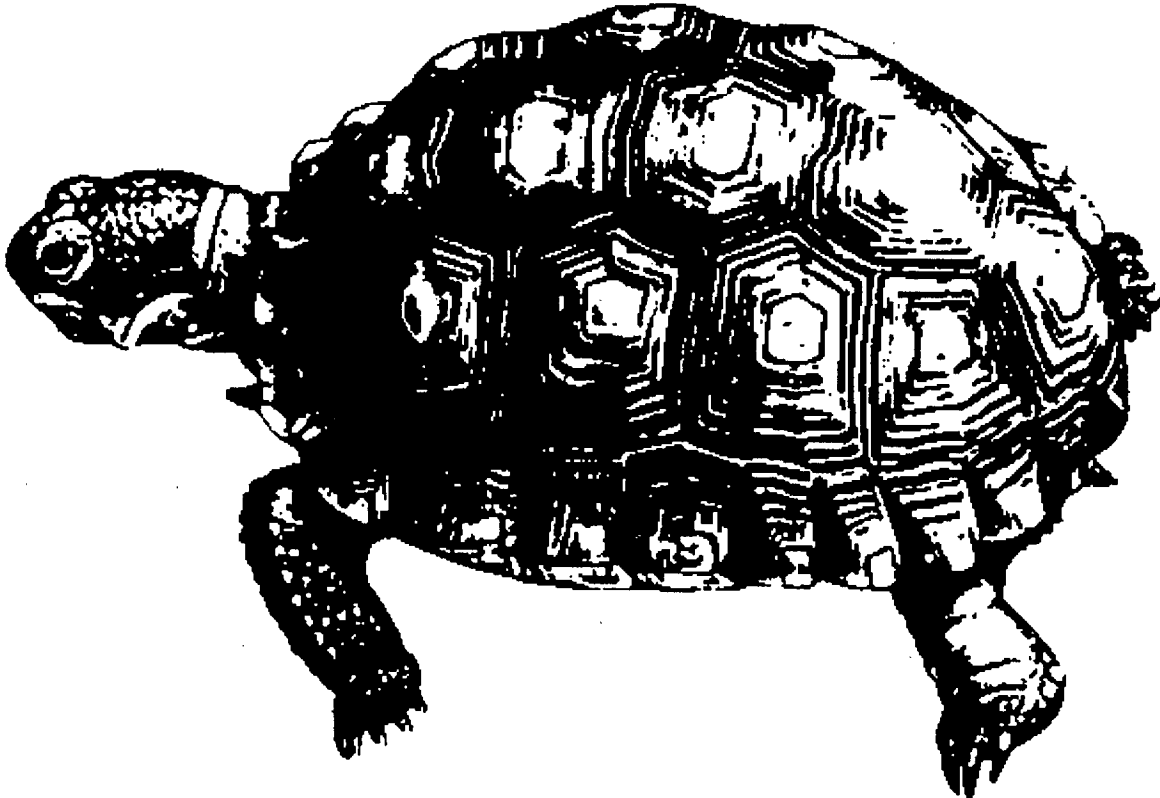
Robert V. Abbey
State Director, Nevada

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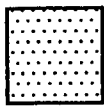
INTRODUCTION

In 1990, the U. S. Fish and Wildlife Service (USFWS), under the authority of the ESA, listed the Mojave population of the desert tortoise as a threatened species. This Approved Plan Amendment (APA) and Record of Decision (ROD) is to help recover and delist the desert tortoise within a multiple use management context within a portion of the Ely District (**Map 1**). The goals and actions, recommended in the *Desert Tortoise (Mojave Population) Recovery Plan* (hereinafter Recovery Plan) would assist the recovery and delisting of the desert tortoise (*Gopherus agassizii*) in the Northeastern Mojave Recovery Unit (**Map 1**). The amendment is required to comply with the Endangered Species Act (ESA) of 1973, as amended, which mandates that all federal agencies will conserve and recover listed species within their administrative units. Management direction for this plan amendment was developed within the context of BLM's mandate from the Federal Land Policy and Management Act (FLPMA) to manage public lands under multiple use and sustained yield.

This document is comprised of two parts. Part I, the APA, lists the actions outlined in the Proposed Amendment that will be carried out to aid in recovery of the tortoise. It also includes Terms and Conditions from the USFWS' Biological Opinion (BO) for the APA (file number 1-5-99-F-450) and Standard Operating Procedures (SOP) that will be used to aid in tortoise recovery. Part II, the ROD, includes the final decision of the State Director concerning this planning area and all actions that could aid in recovery of the tortoise.



Planning Area

 Planning Area
(excluding all
private lands)



Desert National
Wildlife Range

Private
Property

BLM Land
Under Lease

Lincoln County
Clark County

Utah
Nevada

Arizona
Nevada

Elgin

Meadow
Valley
Wash

Carp

Mormon
Mountains
Meadow
Valley
Mountains

Alamo

Mesquite

Mesquite

40 Miles

20

0

20



PART I: APPROVED PLAN AMENDMENT

OBJECTIVE

The objective of this APA and ROD is to assist in the recovery and delisting of the Mojave population of desert tortoise in the Northeastern Mojave Recovery Unit within a multiple-use management context. This amendment contains four major components:

1. Designation of three Areas of Critical Environmental Concern (ACECs) with associated management prescriptions
2. Management prescriptions for desert tortoise habitat inside and outside of the ACECs
3. Participation in a USFWS-developed and implemented environmental education program; and
4. Implementation of the USFWS-approved interagency monitoring program.

RESOURCE DECISIONS

The following description of the APA includes only those programs or resources for which new management objectives or direction are proposed; all other decisions from the approved Caliente Management Framework Plan (MFP) remain valid. In addition, there is direction from the BO Terms and Conditions from the USFWS.

SPECIAL MANAGEMENT AREAS

Three ACECs are designated and will be managed primarily for the recovery of the desert tortoise (**Map 2**). These ACECs encompass 212,500 acres or approximately 83 percent of the critical habitat designated by the USFWS for desert tortoise in Lincoln County. They are the Kane Springs (65,900 acres), Mormon Mesa (109,700 acres) and Beaver Dam Slope (36,9000 acres) ACECs. They are contiguous with other ACECs, either proposed or currently designated. The BLM will also participate in a USFWS-developed environmental education program and implement an interagency desert tortoise monitoring program, approved by the USFWS.

Outside ACECs

Management direction is also instigated for desert tortoise habitat outside of the ACECs in order to maintain or improve existing habitat conditions for desert tortoise habitat to stabilize desert tortoise populations at existing trend levels, improve habitat and be consistent with recovery efforts by other agencies.

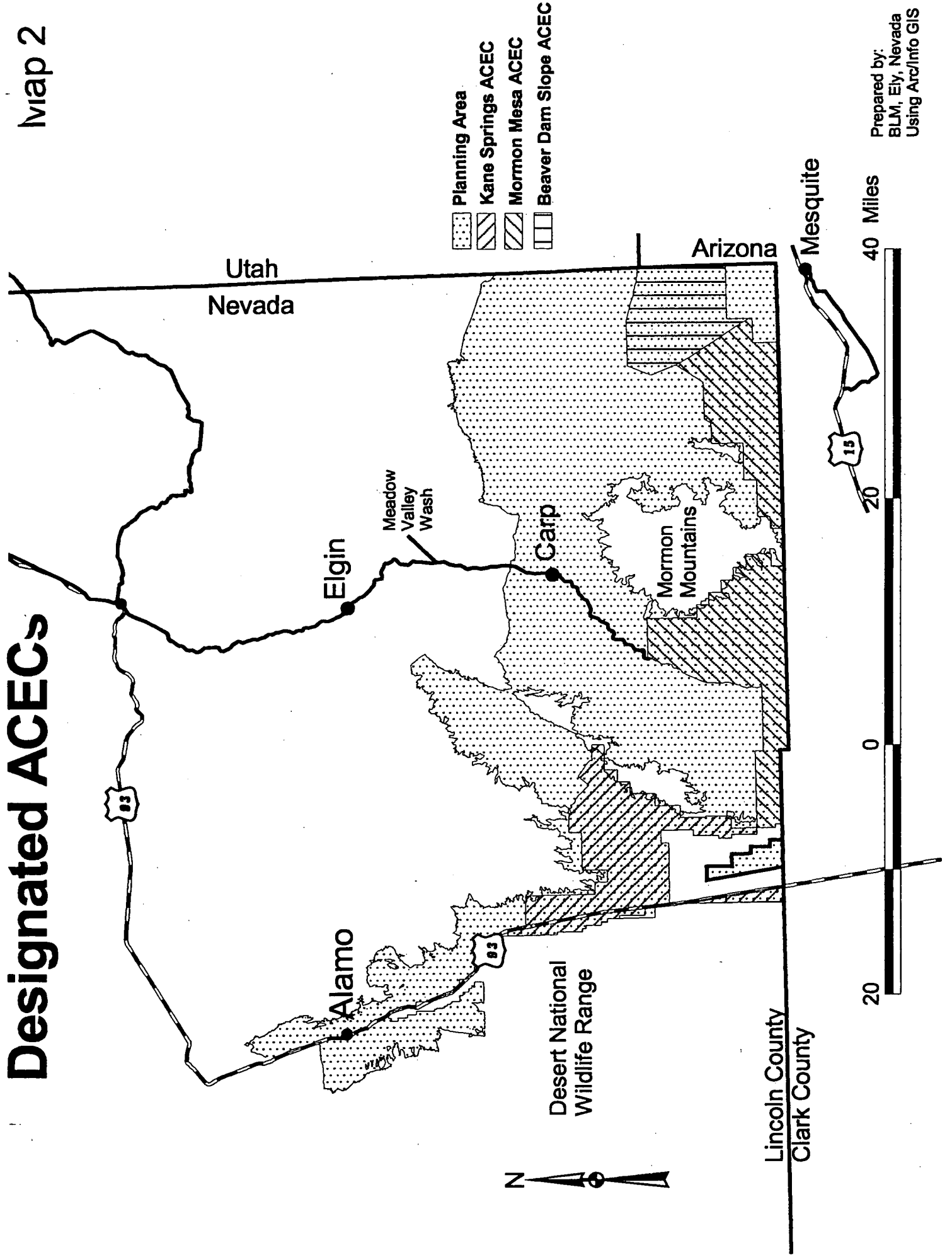
Implementation

Initiate a Federal Register Notice(s) to designate the ACECs.

Develop Management Plans for each ACEC.

Designated ACECs

Map 2



SPECIAL STATUS ANIMAL SPECIES/WILDLIFE HABITAT MANAGEMENT

Within ACECs

Coordinate with the USFWS and Nevada Division of Wildlife (NDOW) to inventory desert tortoise habitat.

Initiate, in coordination with the USFWS, NDOW, and the U.S. Department of Agriculture-Wildlife Services, a program to control desert tortoise predators.

Coordinate with the USFWS and NDOW to designate Experimental Management Zones (EMZs), as identified in the Recovery Plan, and to issue permits for experimental research activities (including intrusive research on desert tortoise) within those zones during the recovery period as appropriate.

Coordinate with the USFWS and NDOW prior to the issuance of permits for research.

Coordinate with the USFWS and NDOW to develop approved translocation research projects for captive or displaced desert tortoises, as needed.

Implement a USFWS-approved interagency (NDOW, Nevada Natural Heritage Program, Biological Resource Division (BRD), and the Desert Tortoise Management Oversight Group (MOG)) monitoring plan.

Participate in USFWS-developed environmental education programs when appropriate.

Coordinate, whenever possible, with the Federal Highway Administration, the Nevada Department of Transportation (NDOT), and the Lincoln County Road Department to include a stipulation in the Highway Easement Deed that would encourage the installation of tortoise-proof fencing and crossing culverts along U.S. Highway 93 and other roads as needed.

Coordinate with the USFWS and NDOW to monitor special status animal and other wildlife species.

Authorize population augmentation or enhancement activities for native wildlife species (e.g. desert bighorn, Gambel's quail), only if such actions would not create conflicts with habitat objectives for desert tortoise populations.

Outside ACECs

Initiate coordination with the USFWS, NDOW, and the U.S. Department of Agriculture-Wildlife Services to control desert tortoise predators when necessary.

Participate in USFWS-developed environmental education programs on special status animal species.

Implement and/or participate in an approved interagency (NDOW, USFWS, BLM, Nevada Natural Heritage Program, BRD and MOG) monitoring program for special status animal species.

Biological Opinion Terms and Conditions

Refer to the Rights-of Way Management section to implement reasonable and prudent measures on surface disturbing activities (projects).

Implementation

Incorporate above measures into current management practices.

The Bureau will keep an up-to-date log of all actions taken under this consultation; number of acres affected; results of tortoise survey and removal activities (including reported number of desert tortoises injured, killed, or removed from the project site); date, rate (per acre adjusted for inflation) and amount of fees paid for each project; and progress of recovery actions.

SPECIAL STATUS PLANT SPECIES MANAGEMENT

Within and Outside ACECs

Cooperate with appropriate federal and state agencies to protect and manage special status plant species.

Maintain an inventory of special status plant species habitat within proposed ACECs.

Implementation

Incorporate above measures into current management procedures.

FORESTRY AND VEGETATIVE PRODUCTS MANAGEMENT

Within ACECs

Authorize no commercial desert vegetation harvests (seed and/or plants).

Authorize desert vegetation salvage based on National Environmental Policy Act (NEPA) analysis and Section 7 consultation with the USFWS.

Authorize desert vegetation harvest for educational or scientific research purposes in desert tortoise habitat through scientific research permits.

Outside ACECs

Authorize commercial desert vegetation harvest of seed based on NEPA analysis and Section 7 consultation with the USFWS.

Authorize desert vegetation salvage based on NEPA analysis and Section 7 consultation with the USFWS.

Authorize desert vegetation harvest for educational or scientific research purposes in desert tortoise habitat through scientific research permits.

Biological Opinion Terms and Conditions

Refer to applicable terms and conditions in the right-of-way section relating to surface disturbing activities.

Standard Operating Procedures

Refer to applicable standard operating procedures in the right-of-way section relating to surface disturbing activities.

Implementation

Incorporate this section into the Ely Field Office's planning for forestry and vegetation management.

LIVESTOCK GRAZING MANAGEMENT

Inside ACECs

Those grazing allotments or portions of allotments within the ACECs are shown on **Map 3**. **Table 1** displays livestock grazing information on these allotments or portions of allotments.

Management Direction

Close all allotments or portions of allotments within the ACECs to livestock grazing.

Season of Use

No season of use would be authorized, as the following allotments would be closed to livestock grazing since they are located entirely within ACECs:

- Beacon Allotment
- Sand Hollow Allotment
- Rox-Tule Allotment

Livestock Grazing Allotments and ACECs

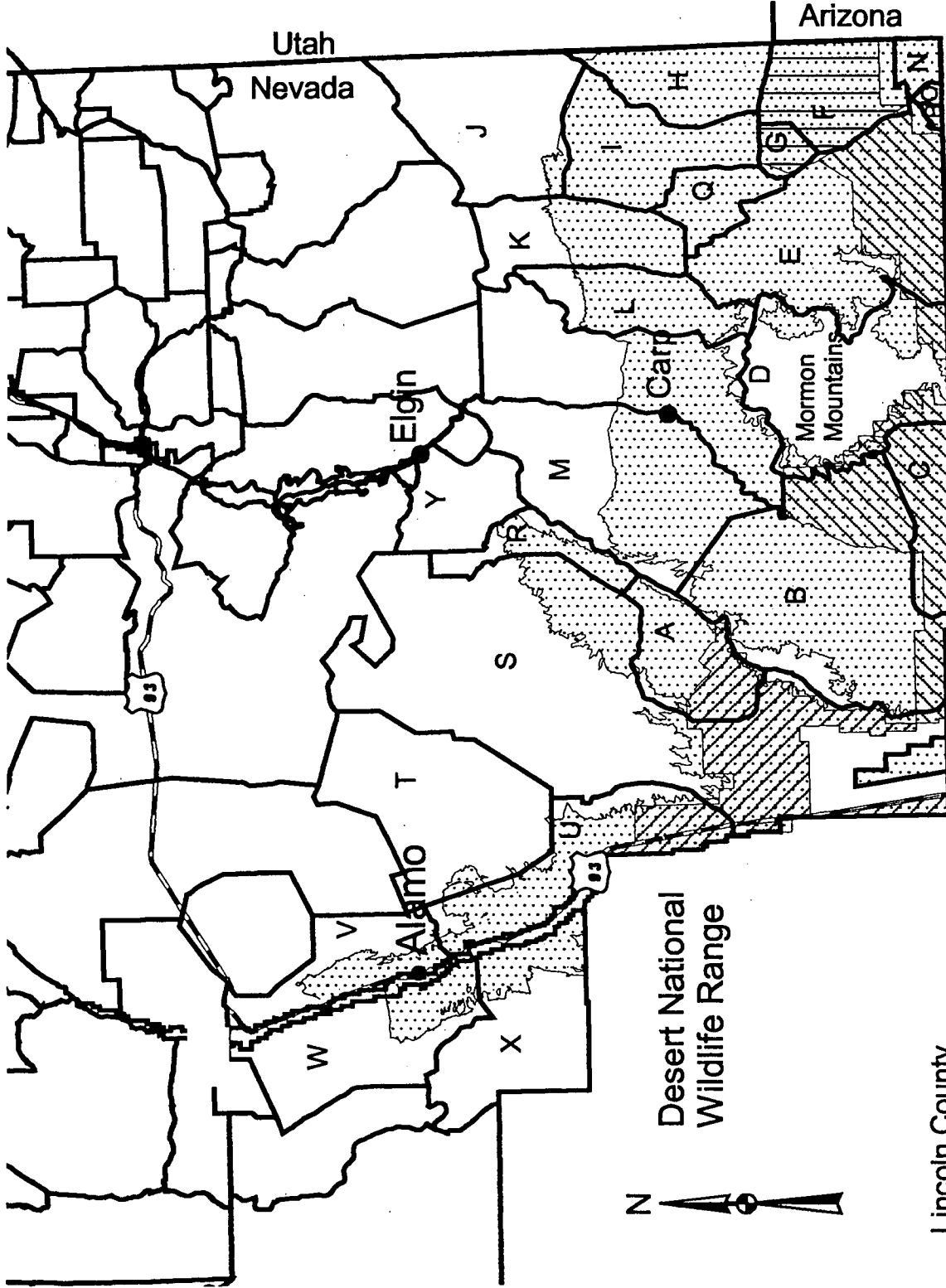
Map 3



Planning Area
Kane Springs ACEC
Mormon Mesa ACEC
Beaver Dam Slope ACEC

Allotments

- A Grapevine
- B Breedlove
- C Rox-Tule
- D Mormon Peak
- E Gourd Spring
- F Sand Hollow
- G Beacon
- H Terry
- I Snow springs
- J Lime Mountain
- K Garden Spring
- L White Rock
- M Henrie Complex
- N Jackrabbitt
- O Pulsipher Wash
- P Flat Top Mesa
- Q Summit Spring
- R Boulder Spring
- S Delamar
- T Buckhorn
- U Lower Lake East
- V Pahrana East
- W Pahrana West
- X Lower lake West
- Y Lower Riggs



40 Miles

20

0

20



Prepared by:

BLM, Ely, Nevada
Using Arc/Info GIS

Table 1 Allotments Partially or Entirely Within ACECs.

ALLOTMENT	TOTAL ACRES ALLOTMENT	TOTAL ACRES OF ALLOTMENT IN ACEC	PERCENTAGE OF ALLOTMENT IN ACEC
MORMON MESA ACEC			
Breedlove	121,500	31,600	26
Delamar	245,400	1,000	1
Gourd Springs	97,700	40,000	41
Mormon Peak	77,900	13,200	17
Rox-Tule	25,600	23,900	93
TOTALS	621,800	109,700	18
KANE SPRINGS ACEC			
Breedlove	121,500	400	3
Delamar	245,400	41,400	17
Grapevine	34,200	12,200	36
Lower Lake East	53,700	11,900	22
TOTALS	454,800	65,900	14
BEAVER DAM SLOPE ACEC			
Sand Hollow (Beacon)**	41,200	36,900	89 (100)
TOTALS **Beacon Allotment is located within the Sand Hollow allotment, a dual use area for cattle and sheep. (Source: BLM, Caliente Field Station, 1996)	41,200	36,900	95

No season of use would be authorized in portions of the following allotments that occur within the ACECs because those portions of allotments would be closed to livestock grazing:

Breedlove Allotment
 Delamar Allotment
 Gourd Spring Allotment
 Grapevine Allotment
 Lower Lake East Allotment
 Mormon Peak Allotment

Range Improvements

Construct improvements only as needed to facilitate multiple use and to exclude livestock from the Kane Springs, Mormon Mesa, and Beaver Dam Slope ACECs.

Allotment Categorization

Allotment categories would be dropped for allotments or portions of allotments within the ACECs.

Initial Stocking Level

Current and permitted use for allotments or portions of allotments within the Kane Springs, Mormon Mesa and Beaver Dam Slope ACECs would be as shown in **Table 2**. Changes in permitted use on allotments would be made using the allotment evaluation and multiple use decision processes and/or determination that livestock grazing is a factor in the non-attainment of rangeland health standards.

Outside ACECs

Management Areas

Those allotments or portions of allotments that are outside of the ACECs would remain open to livestock grazing and are shown on **Map 3**.

Management Direction

Season of Use

Establish season of use on all perennial allotments through the allotment evaluation and multiple-use decision processes and subsequent allotment management plans or equivalent activity plans. **Table 3** displays season of use and total AUMs outside of the ACECs. In the future, Section 7 consultation may occur on a case-by-case basis for grazing management through an allotment management plan or grazing system other than outlined in this plan.

Table 2 Current and Permitted Use Within the ACECs.

ALLOTMENT	CURRENT PERMITTED USE WITHIN ACECS	PERMITTED USE WITHIN ACECS
Lower Lake East	0	0
Delamar	0	0
Grapevine	211	0
Breedlove	166	0
Rox-Tule	756	0
Mormon Peak	0	0
Gourd Spring	0	0
Sand Hollow	2, 430	0
Beacon	2,095	0
(Source: BLM, Caliente Field Station data, 1996)		

Grazing Management Actions

Range Improvements

Construct improvements as needed to facilitate multiple use.

Initial Stocking Level

Allotments or portions of allotments within desert tortoise habitat, but outside of ACECs, would remain at current stocking levels as shown in **Table 3**. Changes in permitted use on allotments would be based on monitoring and determinations made through the allotment evaluation process in accordance with rangeland health standards.

Conversions from cattle to sheep would not be allowed within the planning area.

Constraints on Livestock Grazing

For areas outside of the ACECs, livestock use may occur March 15 to October 15, as long as forage utilization does not exceed 40 percent on key perennial grasses, forbs and shrubs.

Between October 15 and March 15, livestock use may occur as long as forage utilization does not exceed 50 percent on key perennial grasses and 45 percent on key shrubs and perennial forbs. These constraints would be applied to the allotments listed in **Table 3**.

Table 3 Seasons of Use and Permitted Use Outside of ACECs.

ALLOTMENT	SEASON OF USE	PERMITTED USE
Boulder Spring	10-1 to 3-31	416
Breedlove	3-1 to 2-28	698
Buckhorn	3-1 to 2-28	3,370
Delamar	3-1 to 2-28	5,558
Flat Top Mesa	*E	*E
Garden Spring	10-1 to 5-31	2,809
Gourd Springs	10-1 to 5-31	3,239
Grapevine	3-1 to 2-28	349
Henrie Complex	3-1 to 2-28	4,160
Jackrabbit	*E	*E
Lime Mountain	10-1 to 5-15	6,754
Lower Lake East	3-1 to 2-28	640
Lower Lake West	3-1 to 2-28	1,247
Lower Riggs	5-1 to 3-24	1,408
Mormon Peak	3-1 to 2-28	600
Pahrnagat East	8-1 to 5-31	511
Pahrnagat West	10-1 to 5-31	2,144
Pulsipher Wash	*E	*E
Snow Spring	10-1 to 5-31	3,567
Summit Spring	10-1 to 5-15	715
Terry	11-1 to 5-31	1,511
White Rock	10-1 to 5-31	2,880
*E = Ephemeral Allotment (Source: BLM, Caliente Field Station data, 1996)		

Allotment Categorization

Allotment categories would remain unchanged for those allotments outside of ACECs.

Use Adjustment Criteria

Use adjustments for all allotments would be based on results of monitoring studies and determinations made through the allotment evaluation and multiple-use decision process in accordance with rangeland health standards.

Biological Opinion Terms and Conditions

To implement Reasonable and Prudent Measure Number 1 (**Appendix A**), the Bureau shall fully implement the following terms and conditions to reduce impacts to the desert tortoise and its habitat from licensing of livestock grazing:

- a. From March 15 to October 15, livestock use may occur as long as forage utilization management levels do not exceed 40 percent on key perennial grasses, shrubs and perennial forbs; and between October 15 and March 15, provided forage utilization management levels do not exceed 50 percent on key perennial grasses and 45 percent on key shrubs and perennial forbs. If the use levels are reached, livestock will be moved to another location within the allotment or taken entirely off the allotment.
- b. All vehicle use in desert tortoise habitat associated with livestock grazing, with the exception of range improvements, shall be restricted to existing roads, trails, and large sandy washes. Permittees and associated workers shall comply with posted speed limits on access roads. No new access roads shall be created. Range improvement projects associated with grazing allotments administered by the Bureau's Ely Field Office shall comply with terms and conditions 5-8 of this biological opinion.
- c. Tortoises discovered by the permittee to be in imminent danger during routine cattle movement or maintenance activities, may be moved out of harm's way by the permittee provided the permittee has received the required training.
- d. Use of hay or grains as a feeding supplement shall be prohibited within grazing allotments to avoid the introduction of non-native plant species. Mineral and salt blocks are authorized subject to 43 CFR section 4130.6-2(c) and should be placed in previously disturbed areas wherever possible, to minimize impacts to desert tortoise and its habitat. In some cases, blocks may be placed in areas that have a net benefit to tortoise by distributing livestock more evenly throughout the allotment, and minimizing concentrations of livestock that result in habitat damage.
- e. Manage for a minimum of 15 percent canopy cover for each ecological site of each allotment. Canopy cover will be determined by measuring only the native perennial species and will be evaluated within the limitations of ecological site potential.

- f. Regular site visits shall be made to open allotments that are actively grazed by livestock by Bureau rangeland specialists and other qualified personnel, including Service biologists, to ensure compliance with the terms and conditions of the biological opinion and the stipulations of the grazing license. Any items in non-compliance shall be rectified by the Bureau and reported to the Service.
- g. Livestock levels will be adjusted to reflect significant, unusual climatic conditions which result in a dramatic change in range conditions (e.g., drought and fire), which negatively impact the ability of the allotment to support both tortoises and cattle to a degree considered by the Bureau and Service beyond the scope of this consultation.
- h. The permittee is required to take action to remove any livestock that move into areas closed to grazing back into the open acres of the allotment. If straying of livestock becomes problematic, the Bureau, in consultation with the Service, shall take measures to ensure straying is prevented.
- i. The Bureau will begin to issue decisions to close livestock grazing allotments or portions of allotments that occur within ACECs in the Ely District, upon approval of the APA or accept relinquishments of permits on these areas. The Service and Bureau anticipate that decisions will be issued or relinquishments signed within 120 days following approval of the APA.

For surface disturbing activities (i.e. projects) refer to reasonable and prudent measures for surface disturbing activities under the Right-of-Way Management section.

Standard Operating Procedures

- 1. The payment of grazing fees are due on the due date specified on the grazing fee bill. Failure to pay the grazing fee bill within 15 days of the due date specified in the bill shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, but not to exceed \$250.00.
- 2. Applications for changes in grazing use must be in written form and received by the Bureau of Land Management Office no later than 15 days prior to the desired date of change. Applications for changes in grazing use which require the issuance of a replacement or supplemental billing notice shall be subject to a ten dollar service charge.
- 3. Grazing applications will be issued on a yearly basis, if you do not sign and return your grazing application by the date specified on the application you will receive a bill for all of your active livestock grazing permitted use. If you wish to place all or a portion of your active livestock grazing use into non-use for the grazing year, you must indicate this in writing on your grazing application, along with your reasons.

4. Signed Actual Use Statements are due annually to the Caliente Field Office within 15 days after completing annual grazing use. In the case of year round grazing, Actual Use Statements must be received in our office by March 15.
5. The term Federal grazing permit is subject to cancellation, suspension, or modification for any violation of the Code of Federal Regulations or specified terms or conditions of this permit.
6. Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the authorized officer by telephone, with written confirmation, immediately upon discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

Implementation

1. The Bureau will establish key areas on the Breedlove and Lower Lake East livestock allotments within one year of the date of this biological opinion. Monitoring will occur as proposed in the *Description of the Proposed Action*, under subheading *Livestock Monitoring and Evaluation*.
2. The Bureau will issue decisions to close all livestock grazing allotments that occur within desert tortoise ACECs in the Ely District within 120 days of the State Director signing of this Approved Plan Amendment and Record of Decision.
3. The Bureau shall submit an annual report due March 31st of each year on the status of short-term objectives and detailed information related to:
 - a. Cattle-straying activities that resulted in movement into desert tortoise ACECs and the resulting action(s).
 - b. A summary of cattle-movement activities that occurred as a result of utilization studies.
 - c. A summary of range monitoring activities (i.e., pattern mapping and utilization) including details of utilization levels as they relate to allowed utilization levels.
 - d. A summary which displays the progress in obtaining and/or maintaining Short-term management objectives.
 - e. Any increase or decrease in numbers of cattle utilizing covered allotments and reasons for the change.

4. The Bureau shall provide an additional report on the status of long-term objectives at the conclusion of the livestock evaluations. This report shall include, at a minimum: (1) A summary trend data indicating upward or downward trends in the biomass of those species identified as "key species," (2) a summary which displays the progress in obtaining and/or maintaining long-term management objectives; and (3) a summary of frequency and trend.

WILD HORSE AND BURRO MANAGEMENT

Inside ACECs

The Mormon Mountains Herd Management Area (HMA) is the only HMA which overlaps an ACEC (**Map 4**). This HMA will no longer be managed for wild horses and burros. The entire area will lose its status as an HMA, but will maintain Herd Area (HA) status for future management consideration, should conditions change.

Remove any wild horses and burros that establish home ranges within an ACEC.

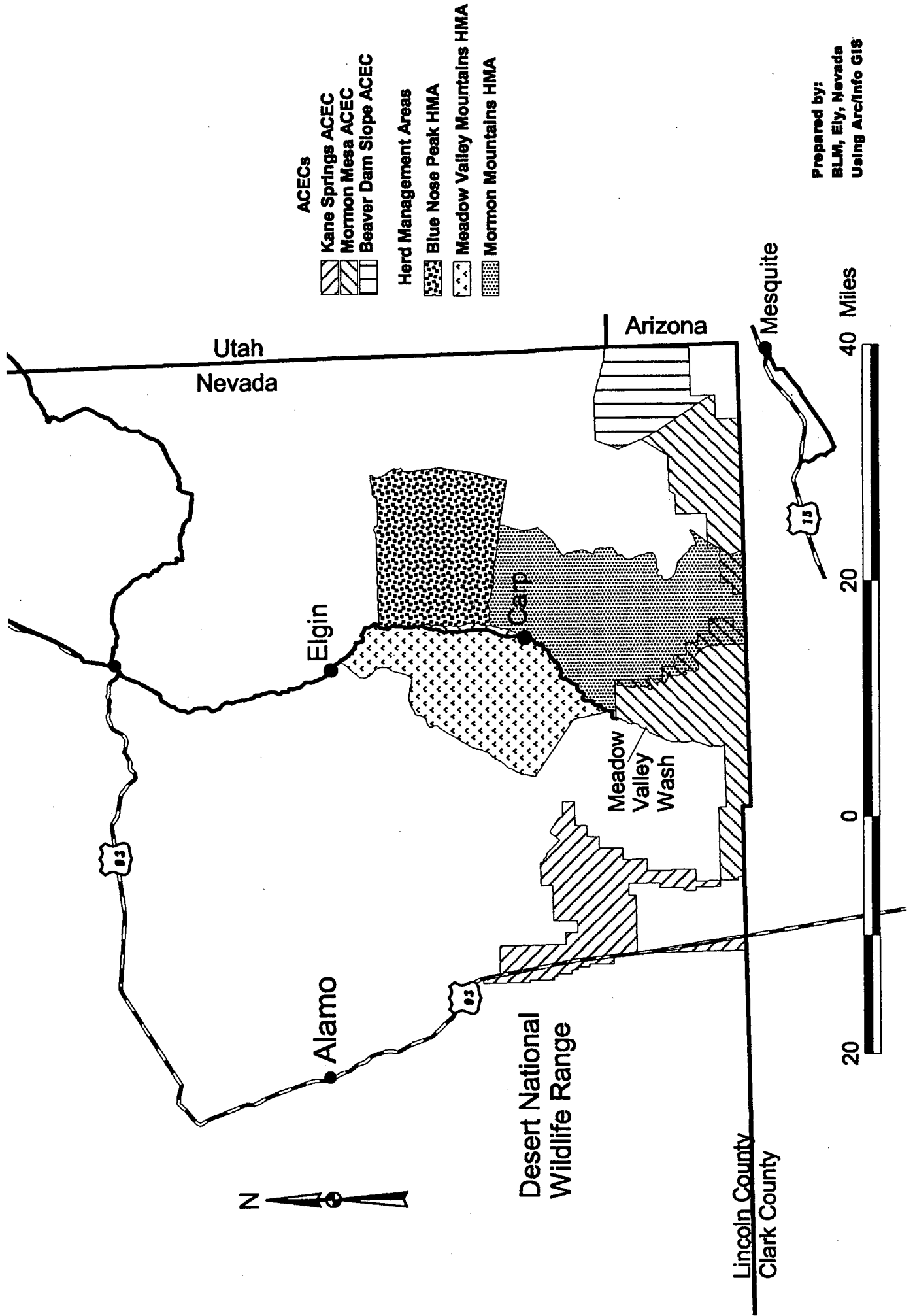
Remove all wild horses and burros from the Mormon Mountains HA and surrounding non-HMA areas. Should animals from adjacent HMAs reestablish within the HA and ACEC following removal efforts, additional removals would be conducted as needed to remove those animals.

Outside ACECs

Existing HMAs within desert tortoise habitat include the Mormon Mountains, Meadow Valley Mountains, and Blue Nose Peak HMAs, with boundaries as depicted on **Map 4**.

Continue to manage the Meadow Valley Mountains and Blue Nose Peak HMAs for wild horses and burros and as HMAs.

The existing Mormon Mountains HMA would no longer be managed for wild horses and burros, since there are no physical barriers to restrict the animals' movement into the Mormon Mesa ACEC. No facilities would be constructed to inhibit the wild and free-roaming nature of the wild horses and burros. The area will lose its status as an HMA, but will maintain HA status, for future management consideration, should conditions change.



Herd Size

Establish Appropriate Management Levels (AML) within the Meadow Valley Mountains and Blue Nose Peak HMAs, as determined through monitoring of the animal population, forage, water, riparian, and other ecosystem management objectives.

No AML is established for the Mormon Mountains Herd Area and all wild horses and burros will be removed.

Resource Constraints

Wild horse and burro use within the Meadow Valley Mountains and Blue Nose Peak HMAs may occur between March 15 and October 15, as long as forage utilization does not exceed 40 percent on key perennial grasses, forbs, and shrubs.

Between October 15 and March 15, wild horse and burro use within the Meadow Valley Mountains and Blue Nose Peak HMAs may occur as long as forage utilization does not exceed 50 percent on key perennial grasses and 45 percent on key shrubs and perennial forbs as modified by the BLM. These utilization levels will be used in the establishment of AMLs for the Meadow Valley Mountains and Blue Nose Peak HMAs. Should AMLs be exceeded, excess animals will be removed.

Wild Horse and Burro Ranges

No new wild horse and burro ranges are recommended for approval by the Director.

Activity Planning

The Mormon Mountains Herd Area will not have a Herd Management Plan developed, since it is not an established HMA.

Biological Opinion Terms and Conditions

To implement Reasonable and Prudent Measure Number 2 (**Appendix A**), the Bureau shall fully implement the following terms and conditions to reduce impacts to desert tortoise and its habitat from management of wild horses and burros:

- a. Wild horse and burros will be managed with the same seasonal utilization limits proposed for livestock grazing: 1) from March 15 to October 15, as long as forage utilization management levels do not exceed 40 percent on key perennial grasses, shrubs and perennial forbs; and 2) between October 15 and March 15, provided forage utilization management levels do not exceed 50 percent on key perennial grasses and 45 percent on key shrubs and perennial forbs.

- b. The Mormon Mountains HMA and surrounding non-HMA within an ACEC will be monitored at least twice yearly to determine if wild horses or burros have moved back into the HMA or surrounding ACECs. If wild horses and/or burros have established home ranges within the HMA or ACEC, then those animals will be removed. If wild horse and/or burros become problematic by continuing to reestablish home ranges within the identified areas, measures shall be taken, in consultation with the Service, to ensure that this is prevented. Any wild horses or burros found within desert tortoise ACECs, will be relocated within 30 days during the tortoise active season, and 90 days during the tortoise inactive season, as funding allows.
- c. The Mormon Mountain HMA and Mormon Mesa ACEC shall be visited by a Bureau wild horse and burro specialist or other qualified personnel to ensure compliance with the terms and conditions of the biological opinion. Any items in non-compliance shall be rectified by the Bureau and reported to the Service.
- d. For gathers: Trap sites should be located at previous trap site locations or in previously disturbed areas, where possible. All trap and holding sites, and access routes will be cleared by a qualified biologist before the trap and holding facilities are set up. The parcel will be surveyed for desert tortoise using survey techniques which provide 100 percent coverage.
- e. For gathers: Holding facilities will not be located inside ACECs. If possible, they should be located outside of desert tortoise habitat. If they cannot be located outside of desert tortoise habitat, they should be placed in previously disturbed areas.
- f. All vehicle use during gathers in desert tortoise habitat shall be restricted to existing roads and trails and within surveyed areas. Vehicles shall not exceed 25 mph.
- g. During gathers, trash and garbage shall be contained in a covered, raven-proof trash receptacle and disposed of off-site in a designated facility. No trash or garbage shall be buried at the sites.
- h. Use of hay or grains as enticements into the traps will not occur within desert tortoise habitat to avoid the introduction of non-native plant species. The feeding of hay or grains to animals will not be allowed within ACECs. The feeding of hay or grains to animals at holding facilities on public land within desert tortoise habitat will be avoided when possible.
- i. The Bureau shall designate an individual(s) as contact representative who will be responsible for overseeing compliance with the terms and conditions contained in the biological opinion and provide coordination with the Service.

- j. The discharge of firearms will be prohibited at all trap and holding facilities except in the case of euthanasia of a captured animal by an authorized Bureau employee or contractor.

For surface disturbing activities (i.e. projects) refer to reasonable and prudent measures for surface disturbing activities under the Rights-of-Way section.

Implementation

Determination of AML of wild horses are made during the allotment evaluation process.

If necessary, wild horses will be removed from the range using approved methods.

LANDS MANAGEMENT

Within ACECs

Disposal

Allow no disposal of public land through FLPMA sales, exchanges, Desert Land Entry, Indian Allotment, Recreation and Public Purpose, Carey, or Airport and Airway Improvement Acts.

Land Use Authorizations

Allow only land use authorizations that do not require any surface disturbance.

Acquisitions

Encourage local governments and private individuals to purchase environmentally sensitive private lands within ACECs that could be exchanged for public lands outside of ACECs (**Appendix B**).

Acquire lands legislatively transferred to Harrich Investments, LLC, (formerly Aerojet) by Public Law 100-275 through the appropriate authorities, should those lands become available. Include any lands acquired in the Kane Springs ACEC. Addition to the ACEC would also occur if termination or relinquishment of the lease were to take place.

Acquire private lands or rights to private lands within ACECs from willing sellers.

Un-authorized Use

Resolve unauthorized use so as to emphasize reclamation and title retention, rather than title transfer.

Reclaim surface disturbances from unauthorized uses to pre-disturbance conditions, if possible.

Withdrawals

Allow administrative withdrawals for the purposes of facilitating management and for construction of public information/environmental education facilities, on those lands within ACECs but outside of WSAs.

Outside ACECs

Retain all designated critical desert tortoise habitat outside of ACECs until such time the USFWS revises the critical habitat designation to be consistent with the ACECs. Allow no disposal of designated critical desert tortoise habitat public lands through FLPMA sales or exchanges, Carey Act, Desert Land Act, Indian Allotment Act, Recreation and Public Purposes Act, or the Airport and Airways Improvement Act. An exception to this is to allow for disposal of the legislatively leased lands (P.L. 100-275), through exchange for lands legislatively conveyed lands (P.L. 100-275). This exception would be allowed because BLM would obtain critical habitat for critical habitat and there would be no net loss of critical habitat. Those private lands acquired through such an exchange would be added to the Kane Springs ACEC. Should this exchange be proposed it would require a new Section 7 consultation with the USFWS.

A maximum of 16,926 acres of desert tortoise habitat outside ACECs may be disposed of through the appropriate land laws as allowed for under the BO (**Appendix B**). For this planning area, the Desert Land Act, Carey Act, and the Indian Allotment Act are not appropriate laws for disposal of public lands.

Provide qualified applicants with land use authorizations as demonstrated needs arise and resource constraints are met.

Provide support to other BLM resource programs by acquiring lands or rights in lands through appropriate authorities.

Pursue segregation by withdrawal under the authority of Section 204 of FLPMA for areas where resource protection is needed.

Pursue trespass prevention, detection, abatement, and resolution consistent with appropriate laws and land use planning.

Implementation

Lands totaling 16,926 acres within the planning area would be available for potential disposal within desert tortoise habitat outside of ACECs and critical habitat within Lincoln County as allowed for under the BO (**Appendix B**). There would be no acreage limit on the number of acres disposed of in any single sale or exchange. Upon transfer of title, the Bureau would inform the applicant that they are responsible for compliance with the Endangered Species Act (ESA). No stipulations would be attached to the sale document and it would be the responsibility of the buyer to comply with Section 10 of the ESA. However, since Lincoln County does not have a habitat conservation plan (HCP) in effect, the buyer may complete an individual HCP for the property. Once an HCP has been completed for Lincoln County, the buyer would be responsible for compliance with the terms and conditions of the HCP.

RIGHTS-OF-WAY MANAGEMENT

Within ACECs

Utility/Transportation Corridors

Retain the legislatively-designated (Public Law 100-275) corridor running north and south on the east side of U.S. Highway 93, through the private holdings of Harrich Investments, LLC, (formerly Aerojet Corporation).

Designate the following corridors (**Map 5**):

1. A corridor 2,640 feet wide connecting to the Moapa Reservation-designated corridor at Moapa, running northeast to the Nevada-Utah state line. The corridor is one-quarter mile on either side of the IPP 500 kV line and includes portions of the Kern River pipeline. This corridor crosses portions of the Mormon Mesa and Beaver Dam Slope ACECs and links corridors designated by the Las Vegas and Dixie Field Office's Resource Management Plans (RMPs).
2. A corridor 1,000 feet wide, 500 feet on centerline of the existing telephone fiberoptic lines, beginning within T. 11S, R. 71E, Section 30, running easterly to the Arizona stateline. This corridor crosses portions of the Beaver Dam Slope ACEC and is consistent with the Arizona Strip Field Office.
3. A corridor 2,640 feet wide extending northerly from the north end of the Aerojet designated corridor, following the centerline of the approved Southwest Intertie Power Project (SWIP) right-of-way alignment. This corridor crosses portions of the Kane Springs ACEC.

Corridor Terms and Conditions

Require power distribution lines of voltage higher than 69kV, major pipelines and cross country communication lines to be located in a designated corridor.

Encourage stacking of utility uses.

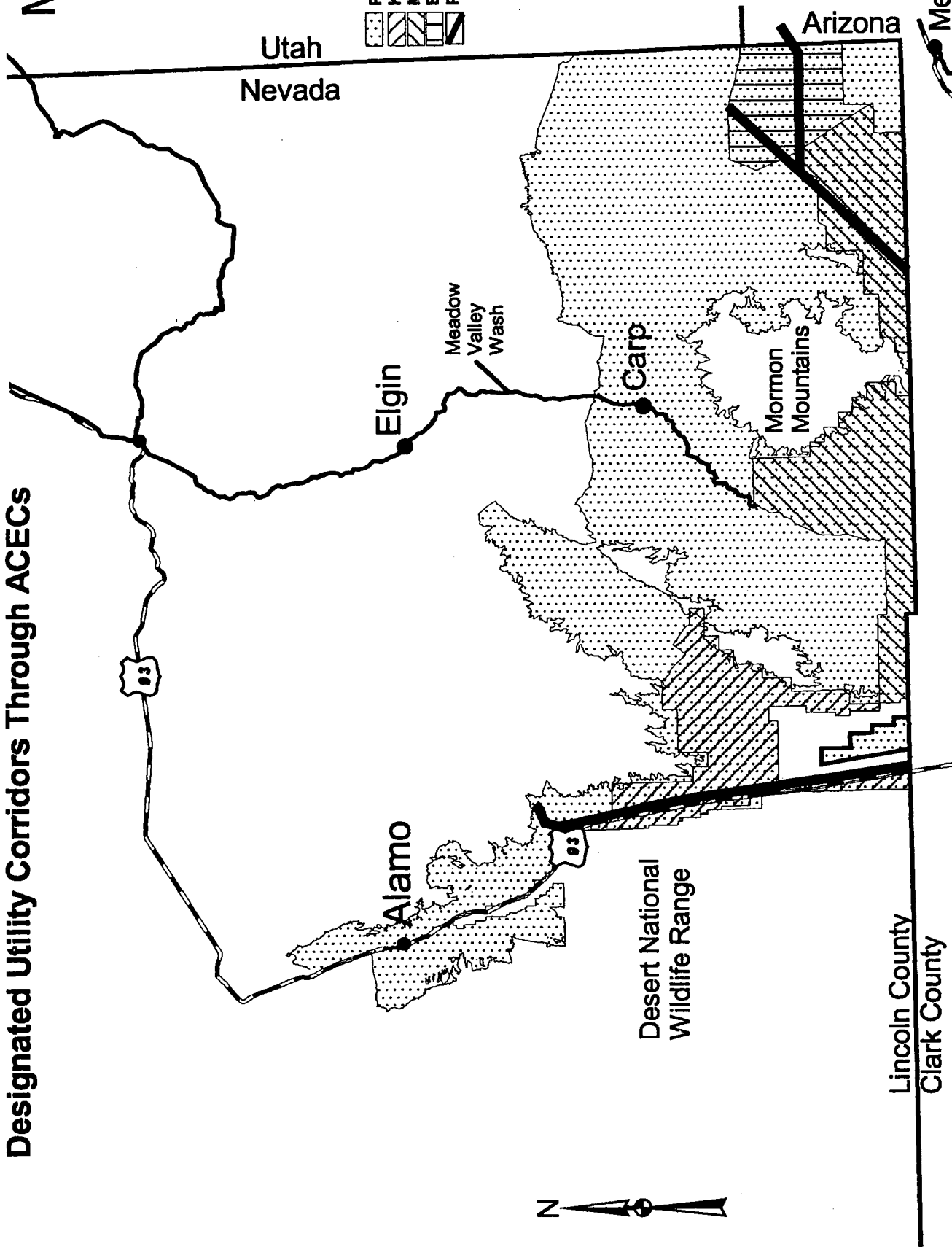
Grant power distribution lines 69kV or less, local telephone, water distribution pipelines and facilities, local fiber-optic loops and cable lines outside of designated corridors on a case-by-case basis. For planning considerations buried long haul data fiber optic lines are the surface disturbance equivalent of a 69kV or less power line. Evaluate right-of-way applications based on NEPA analysis and Section 7 consultation.

Grant access roads to private parcels, federal oil and gas leases, and mining claims based on NEPA analysis and Section 7 consultation.

Designated Utility Corridors Through ACECs

Map 5

- Planning Area
- Kane Springs ACEC
- Mormon Mesa ACEC
- Beaver Dam Slope ACEC
- Proposed Utility Corridors



Rights-of-Way Avoidance Areas

The following are Rights-of-way Avoidance Areas (**Map 6**):

Delamar Mountains Wilderness Study Area (WSA)	(NV-050-177)
Meadow Valley Range WSA	(NV-050-156)
Mormon Mountains WSA	(NV-050-161)
Fish and Wildlife #1 WSA	(NV-050-201)
Evergreen ABC WSA	(NV-050-1R-16)

Renew existing rights-of-way grants if they are still being used for their authorized purpose.

Evaluate applications based on NEPA analysis and Section 7 consultation for WSAs (or portions of WSAs) released by Congress for other uses.

Consider areas outside of proposed corridors within ACECs as right-of-way avoidance areas; applications will be evaluated based on NEPA analysis and Section 7 consultation.

Rights-of-Way Exclusion Areas

Consider all requests for new material site rights-of-way pursuant to the Federal Aid Highway Act within WSAs as inconsistent with this plan amendment.

Consider any designated Wilderness Areas as right-of-way exclusion areas, unless otherwise stated in the enabling legislation.

Areal Rights-of-Way

Limit authorization of future communication site rights-of-way to existing, established communication sites. Make exceptions if the use of an established site is not technically feasible.

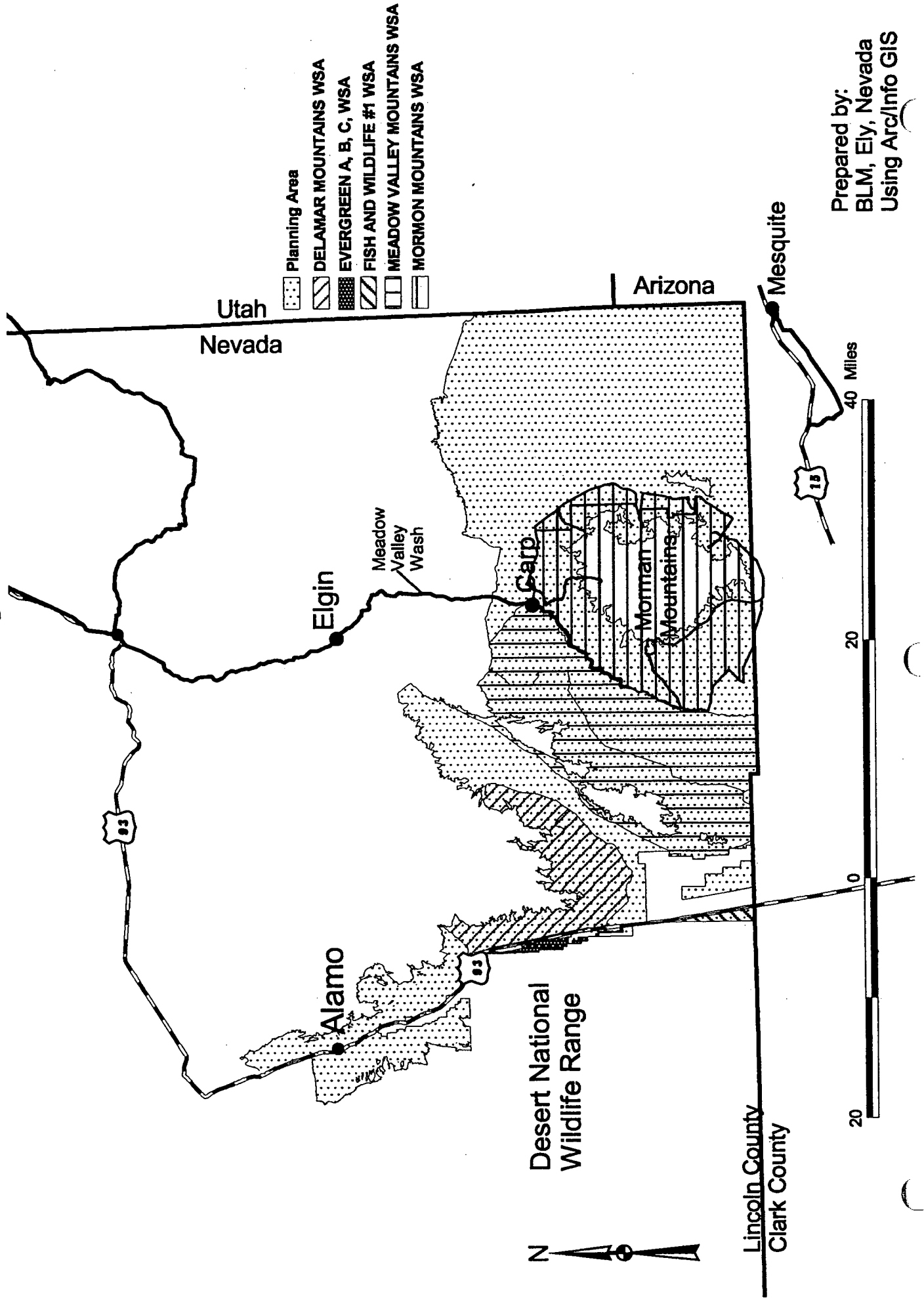
Material Site Rights-of-Way

Consider existing material site rights-of-way in ACECs (both developed and undeveloped) authorized under the provisions of the Federal Highway Aid Act as valid existing rights and consistent with the land use plan. Material site rights-of-way will be authorized within the one-mile wide corridor on state and county roads. These sites will be restricted to not less than 10-mile separations.

Grant rights-of-way to allow transport of oil and gas from producing oil or gas fields that might be developed. These rights-of-way will follow the most feasible route to an established pipeline or road system for further distribution. Encourage corridors, where feasible.

Wilderness Study Areas

Map 6



Outside ACECs

Management direction for rights-of-way in desert tortoise habitat would be the same as that described for ACECs, with the following exceptions.

Material site rights-of-way are considered consistent with this plan.

Areal rights-of-way applications will be considered based upon NEPA analysis and Section 7 consultation.

Biological Opinion Terms and Conditions for Surface Disturbing Activities (Lands and Minerals Actions)

To implement Reasonable and Prudent Measure Number 5 (**Appendix A**), the Bureau shall fully implement the following terms and conditions to reduce impacts to desert tortoise and its habitat from authorization of surface-disturbing activities by the Bureau:

- a. **Within ACECs:** Construction or maintenance of roads is prohibited unless authorized by the Bureau in consultation with the Service.
- b. **Within ACECs:** No new landfills will be authorized.
- c. **Within ACECs:** Unless enclosed with tortoise-proof fence or determined that fencing is not necessary by the BLM and the USFWS: A qualified biologist must be present during surface-disturbing activities from March 15 through October 15 (active season) to insure that desert tortoises are not inadvertently harmed unless determined by the Bureau and the Service that the project does not need one. The biologist will be on-call from October 16 through March 14 (inactive season). The biologist must check construction areas immediately before construction activities begin.

If fence construction occurs during the tortoise active season, a qualified tortoise biologist shall be onsite during construction of the tortoise-proof fence to ensure that no tortoises are harmed. If the fence is constructed during the tortoise inactive season, a biologist will thoroughly examine the proposed fenceline and burrows for the presence of tortoises no more than three days before construction. Any desert tortoises or eggs found in the fenceline will be relocated offsite by a qualified tortoise biologist in accordance with approved protocol (Desert Tortoise Council 1994, revised 1999). Tortoise burrows that occur immediately outside of the fence alignment that can be avoided by fence construction activities, shall be clearly marked to prevent crushing.

- d. **Within ACECs:** Projects will require fencing, unless determined by the Bureau and Service that the project should not be fenced. In accordance with current

specifications, fencing will consist of 1-inch horizontal by 2-inch vertical mesh. The mesh will extend at least 18 inches above ground and, where feasible, 6 to 12 inches below ground. In situations where it is not feasible to bury the fence, the lower 6 to 12 inches of the fence shall be bent at a 90-degree angle towards potentially approaching tortoises and covered with cobble or other suitable material to ensure that tortoise or other animals cannot dig underneath, thus creating gaps through which tortoises may traverse.

- e. The fence shall be inspected on a quarterly basis, and any repairs completed within 72 hours from March 15 through October 15, and 7 days from October 16 through March 14. The operator shall inspect the fencing at least on a quarterly basis and after major precipitation events to insure zero ground clearance, and that it is in compliance with the terms and conditions of this biological opinion. Monitoring and maintenance shall include regular removal of trash and sediment accumulation and restoration of zero ground clearance between the ground and the bottom of the fence, including re-covering the bent portion of the fence if not buried. The operator shall perform maintenance when needed, including removing trash, sediment accumulation, and other debris. Fencing may be removed upon termination and reclamation of the project, or when it is determined by the Bureau and Service that the fence is no longer necessary.
- f. After a project has been fenced and a tortoise clearance completed, if a desert tortoise is encountered in imminent danger, it shall be moved out of harm's way and onto adjacent Bureau land by personnel that have completed the training required in Terms and Conditions 8.h. If the tortoise cannot be avoided or moved out of harm's way onto Bureau land, it shall be placed in a cardboard box or other suitable container and held in a shaded area until Bureau personnel can retrieve the tortoise.
- g. **Minerals Management Within ACECs:** Exploration will be allowed only on existing roads and/or trails. Unless otherwise authorized, access to mineral operations will be limited to existing roads and trails. All proposed surface disturbance and vehicular travel will be limited to the approved operation plan and access route. Upon determination of an impending field development, a transportation plan will be requested to reduce unnecessary access roads. No blading or other dirt work will be allowed without prior approval of the authorized officer.
- h. **Minerals Management Within ACECs:** A portable mud pit shall be used when drilling with fluids. Vibriosis, drill hole shot or surface shot will not be completed within 100 yards of known tortoise burrows.
- i. **Minerals Management Within ACECs:** Companies controlling new road segments may be required to restrict access to the general public. This access could be in the form of closed gates and these restrictions will not apply to legitimate, authorized

agents of the operator or their subcontractor(s), the land managing agency, and other agencies with a legitimate need.

- j. **Minerals Management Within ACECs:** Geophysical, mineral materials and non-energy minerals activity and explorations will only be allowed from October 15 through March 15.
- k. **Minerals Management Within ACECs:** The Kane Springs, Mormon Mesa, and Beaver Dam Slope ACECs will be closed to mineral material disposal except a one-mile corridor, ½-mile each side of the road on designated roads, for the disposal of mineral material through free use permits and federal highway material site rights-of-way. These authorizations are for local, county, and state governments. Existing pits and designations identified as not needed to meet current and future demand will be closed and reclaimed. Each mineral material site will be separated by a minimum distance of 10 miles.
- l. A speed limit of 25 miles per hour shall be required for all vehicles on the project site and unposted dirt access roads.
- m. During surface-disturbing activities, tortoise burrows should be avoided whenever possible. If a tortoise is found onsite during project activities, which may result in take of the tortoise (e.g., in harm's way), such activities shall cease until the tortoise moves, or is moved, out of harm's way. The tortoise shall be moved by a qualified tortoise biologist. All workers will also be instructed to check underneath all vehicles before moving such vehicles and within stockpiled materials. Tortoises often take cover under vehicles and construct burrows in stockpiled material.
- n. Construction sites, staging areas, and access routes will be cleared by a qualified tortoise biologist before the start of construction. The project area shall be surveyed for desert tortoise using survey techniques which provide 100-percent coverage. From March 15 through October 15, the preconstruction clearance shall be no more than three days before initiation of construction and from October 16 through March 14, the preconstruction clearance shall be within ten days before work begins. All desert tortoise burrows, and other species' burrows which may be used by tortoises, will be examined to determine occupancy of each burrow by desert tortoises. Tortoise burrows shall be cleared of tortoises and eggs, and collapsed. Any desert tortoises or eggs found in the fenced area will be removed under the supervision of a qualified tortoise biologist in accordance with Service protocol.
- o. The Bureau must approve the selected consulting firm/biologist to be used by the applicant to implement the terms and conditions of this biological opinion or permit issued by the Bureau. Any biologist and/or firm not previously approved must submit a curriculum vitae and be approved by the Bureau before being authorized to represent the Bureau in meeting compliance with the terms and conditions of this

biological opinion. Other personnel may assist with implementing terms and conditions that involve tortoise handling, monitoring, or surveys, only under direct field supervision by the approved qualified biologist.

- p. Tortoises and nests found shall be handled and relocated by a qualified tortoise biologist in accordance with Service-approved protocol. Burrows containing tortoises or nests will be excavated by hand, with hand tools, to allow removal of the tortoise or eggs. Desert tortoises moved during the tortoise inactive season or those in hibernation, regardless of date, must be placed into an adequate burrow; if one is not available, one will be constructed in accordance with Desert Tortoise Council. During mild temperature periods in the spring and early fall, tortoises removed from the site will not necessarily be placed in a burrow. Tortoises and burrows will only be relocated to federally-managed lands. If the responsible federal agency is not the Bureau, verbal permission, followed by written concurrence, shall be obtained before relocating the tortoise or eggs to lands not managed by the Bureau.
- q. Tortoises that are moved offsite and released into undisturbed habitat on public land must be placed in the shade of a shrub, in a natural unoccupied burrow similar to the hibernaculum in which it was found, or in an artificially constructed burrow in accordance with Desert Tortoise Council.
- r. If possible, overnight parking and storage of equipment and materials, including stockpiling, shall be in previously disturbed areas or areas to be disturbed which have been cleared by a tortoise biologist. If not possible, areas for overnight parking and storage of equipment shall be designated by the tortoise biologist which will minimize habitat disturbance.
- s. All vehicular traffic will be restricted to existing access roads, or those roads approved by the Bureau in consultation with the Service. New access roads are not covered under this biological opinion.
- t. Project activity areas will be clearly marked or flagged at the outer boundaries before the onset of construction. All activities shall be confined to designated areas. Blading of vegetation will occur only to the extent necessary and shall be limited to areas designated for that purpose by the Bureau or tortoise biologist.
- u. Prior to issuance of any permit, lease, or authorization for any surface-disturbing activity, the project proponent shall pay a remuneration fee for each acre of surface disturbance. Remuneration fees in critical habitat shall be based upon the desert tortoise compensation report. Base land values in critical habitat and desert tortoise ACECs shall be \$603 per acre, or the amount currently assessed (see below) adjusted for inflation. The base land value shall be multiplied by the compensation rate for the project. For phased projects, fees will be paid prior to surface disturbance associated with each phase.

For Community Sand And Gravel Sales: Remuneration fees will be assessed per cubic yard of material removed from project site. A fee of 25 cents per cubic yard will be applied until such time as the fees collected are equal to \$603 per acre for each acre of surface disturbance. The acreage equivalent fee for this type project is \$603 times the number of acres of disturbance proposed. The fee shall be paid directly to the Bureau while purchasing mineral materials at the Ely Field Office. The fee shall be deposited directly into the 5320 account administered by the Bureau. The 25-cents-per-yard fee shall continue to be collected until all minimization costs are recaptured.

This rate will be indexed for inflation based on the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) on January 31st of each year. The next adjustment shall occur on January 31, 2000. Fees assessed or collected for projects covered under this biological opinion after January 31st of each year, will be adjusted based on the CPI-U. Information on the CPI-U can be found on the Internet at <http://stats.bls.gov/news.release/cpi.nws.htm>. The adjusted rate of \$603 per acre of disturbance was indexed for inflation for 1999 by increasing the previous rate of \$587 per acre, 2.7 percent (\$16). This rate becomes effective on March 1, 2000.

This fee will be paid directly to the Desert Tortoise Public Lands Conservation Fund Number 730-9999-2315, administered by Clark County or any other administrator approved by both the Service and Bureau. The administrator serves as the banker of these funds and receives no benefit from administering these funds. These funds are independent of any other fees collected by Clark County for desert tortoise conservation planning.

The payment shall be accompanied by the *Section 7 Fee Payment Form* and completed by the payee. The project proponent or applicant may receive credit for payment of such fees and deduct such costs from desert tortoise impact fees charged by local government entities. Payment shall be by certified check or money order payable to Clark County (or other administrator named by the Bureau and Service), and delivered to:

Clark County
Department of Comprehensive Planning
500 South Grand Central Parkway, Third Floor
Las Vegas, Nevada 89155-1712
Attn: Desert Plan Administrator

In addition, a copy of the form will be accompanied by a payment verification and delivered to:

The Bureau of Land Management
Ely Field Office
HC 33 Box 33500
Ely, Nevada 89301-9408
Attn: Field Manager

- v. Projects resulting in residual impacts will require the submission of a Bureau and Service-approved reclamation plan, unless determined by the Bureau and Service that reclamation rehabilitation is not necessary. The reclamation/rehabilitation plan will describe objectives and methods to be used, species of plants and/or seed mixture to be used, time of planting, success standards, and follow-up monitoring. Depending upon the size and location of the project, reclamation could simply involve recontouring; rehabilitation and restriction of access points; or intensive reclamation over the entire area of surface disturbance. The plan shall be prepared within 60 days following completion of the surface disturbance phase of the project. Reclamation will be addressed on a case-by-case basis.
- w. Upon receipt of an application or expression of interest in the expansion of a material site right-of-way within desert tortoise ACECs, the Bureau shall notify the Service and initiate a 60-day evaluation period. During the evaluation period, the Bureau, Service, and NDOT will consider options to minimize impacts to desert tortoise habitat, such as relocation of the pit outside ACECs, other potential sources, and other measures.
- x. If a substantial level of disturbance occurs within a desert tortoise ACEC (e.g., expansion of material sites within ACECs), the proponent will rehabilitate an equivalent number of acres within an ACEC in the same recovery unit, within six months, or relinquish a similar size pit back to the Bureau. These actions will occur in addition to payment of remuneration fees and other minimization measures in this biological opinion.

Standard Operating Procedures

Permitting

1. The operator shall furnish a map showing where the exploration and/or operation will take place. The map shall be of a minimum scale of 1/2 inch to the mile.
2. Desert tortoises moved in the winter (i.e., October 15 through March 15) or those in hibernation regardless of date must be placed into an adequate burrow; if one is not available, one will be constructed utilizing the protocol for burrow in section B.5.f. of the USFWS approved guidelines (Desert Tortoise Council 1994).
3. Temporary roads for exploration and operation will be closed to the public by use of gates, signs or other barrier of entry. These roads will be reclaimed once use is over.

Exploration

1. Unless otherwise authorized, access to mineral operations will be limited to the existing roads and trails. Any cross country travel will have a qualified biologist monitor for tortoise and move them as needed.
2. No oil or other fluid materials shall be drained onto the ground surface.
3. Vibriosis, drill hole shot or surface shot will not be completed within 100 yards of known tortoise burrows.
4. Access road construction for exploration should be planned such that a permanent road can later be constructed in the event of development.

Construction

1. The project applicant shall notify the Authorized Officer at least ten days before initiation of the project
2. Proposed actions will not require fencing unless otherwise identified in the NEPA process.
3. During construction, if trenches or holes are to remain open overnight during the period of March 15 through October 15, they will be checked for tortoises at the end and beginning of each workday. The trenches or holes shall also be checked immediately prior to backfilling.
4. Construction and maintenance of roads would occur within the existing disturbance of the rights-of-way unless otherwise allowed by the authorized officer.

Operations

1. Petroleum products such as gasoline, diesel fuel, helicopter fuel, and lubricants will be containerized in approved containers. Hazardous materials shall be properly stored in separate containers to prevent mixing, drainage, or accidents.
2. Prior to starting operations each day on any lands or energy and minerals operation which has not been totally enclosed by tortoise proof fencing and cattle guards, the operator will be responsible for assuring a desert tortoise survey is conducted by qualified desert tortoise biologists using techniques approved by the USFWS and BLM to make an inspection to determine if any desert tortoises are present, at the following:

- a. around and under all equipment;
- b. in and around all disturbed areas to include stockpiles and reject materials areas;
- c. in and around all routes of ingress and egress;
- d. in and around all other areas where the operation might expand to during that day.

If a tortoise is discovered during this inspection or later in the day, the operator will immediately cease all operations in the immediate vicinity of the tortoise and will immediately notify the Authorized Officer. The tortoise will be left unharmed and will not be touched. Operations will remain stopped until approval to proceed is granted by the Authorized Officer.

3. Upon determination of an impending field development, a transportation plan will be requested to reduce unnecessary access roads.
4. Companies controlling new road segments may be required to restrict access to the general public. This access could be in the form of closed gates and these restrictions will not apply to legitimate, authorized agents of the operator or their subcontractor(s), the land managing agency and other agencies with a legitimate need.

Reclamation

1. Reclamation will normally be accomplished with native seeds only. These will be representative of the indigenous species present in the adjacent habitat. Rationale for potential seeding with selected non natives must be documented. Possible exceptions could include use of non-natives for a temporary cover crop to out compete weeds. Where large acreages are burned by fire and seeding is required for erosion control, all native species can be cost prohibitive and/or unavailable. In all cases seed mixes will be approved by the authorized officer prior to planting.
2. Seeding will occur during November 15 to March 15 to insure a greater chance of success.
3. Reclamation release criteria is as follows:

100% of the perennial plant cover of selected comparison areas, normally like adjacent habitat. If the adjacent habitat is severely disturbed, a range site description may be used as a cover standard. Cover is normally crown cover as estimated by the point intercept method. Selected cover can be determined using a method as described in Sampling Vegetation Attributes, Interagency Technical Reference, 1996, BLM/RS/ST-96/002+1730. The reclamation plan for the area project should identify

the site specific release criteria and associated statistical methods in the reclamation plan or permit.

No noxious weeds will be allowed on the sites for reclamation release. Any noxious weeds that become established will be controlled. A list of Nevada noxious weeds will be provided by the authorized officer.

4. All available growth medium will be salvaged and stockpiled prior to disturbance. Stock piles will be seeded if left for more than one growing season. All disturbance areas will be recontoured to blend as nearly as possible with the natural topography prior to revegetation. All compacted portions of the disturbance will be ripped to a depth of 12 inches unless solid rock is encountered. An adequate, fine grain, seed bed must be established to provide good seed to soil contact. Large blocks and clumps of soil with deep pockets should be avoided. This normally requires some type of tillage procedure after ripping.
5. All portions of access roads not needed for other uses as determined by the authorized officer will be reclaimed.
6. Mulching of the seed-bed following seeding may be required under certain conditions, such as severe erosion.
7. The success of the vegetative growth on a reclaimed site may be evaluated for release no sooner than during the third growing season after earthwork and planting have been completed. Where it has been determined that revegetation success has not been met, the agencies and the operator will meet to decide on the best course of actions necessary to meet the reclamation goal.

Implementation

1. Consultation with the USFWS is required per Section 7 of the Endangered Species Act before the project can be approved if the Bureau determines that the proposed action may affect the desert tortoise. If consultation determines that an adverse impact to the desert tortoise or its habitat will occur, the proposal must be modified or denied per appropriate regulations.
2. Operators submitting a notice for activities within desert tortoise habitat will be informed by BLM of their responsibilities to comply with specific provisions of the ESA.
3. The operator of mineral actions will conform to all Federal and State laws and regulations, including terms and conditions of biological opinions.

4. Prior to the issuance of any material contract, free use permit, material site right-of-way, letter of authorization to conduct sampling and testing, FLPMA right-of-way or Land Use Authorization, all applicants could pay a Section 7 fee for the on-site and off site mitigation of desert tortoise habitat or rehabilitated desert tortoise habitat. The fee amount will be determined by the Authorized Officer.

RECREATION MANAGEMENT

Within ACECs

Casual Off-Highway Vehicle (OHV) Use

Limit casual OHV use in ACECs to roads and vehicle trails designated for OHV use. A route inventory will be conducted. The public participation process will identify routes for designation or closure. A **Federal Register** Notice will be published, and after an appropriate comment period, BLM will:

- Post entry portals or major intersections with signs that read *Vehicle Travel Limited to Designated Roads and Trails*
- Close and rehabilitate extraneous routes
- Sign all designated routes as *Open*
- Sign designated routes to prohibit off road driving
- Enforce the ban on off road driving

Designation of roads and trails will take place within two years of the issuance of this Approved Plan Amendment and Record of Decision. Any roads that might be created following the designation process will be physically closed and rehabilitated as part of ongoing monitoring and maintenance.

Organized OHV Use

Close ACECs to all speed competitive OHV use until additional information is available regarding the impacts of these types of activities on the desert tortoise and its habitat. Should monitoring in other areas indicate that properly managed speed competitive events cause little or no adverse impacts to the desert tortoise or its habitat, these types of events will be allowed to pass through ACECs from October 15 to March 15 along the following constructed, maintained roads; Kane Springs, Carp-Elgin, Halfway Wash, East Halfway Wash and Littlefield Roads (**Map 7**). Of these roads, only the Kane Springs Road lies entirely within the planning unit. Therefore, use of any of the other four corridors would require the concurrence of one of the adjacent administrative units. If monitoring studies indicate that there are unacceptable adverse impacts to the tortoise or its habitat, ACECs will remain closed to speed competitive OHV events.

Close ACECs to all types of organized OHV events from March 15 to June 15, and August 31 to October 15. Outside of these times, permit a maximum of 15 non-speed competitive events, non-speed portions of speed events, and non-competitive OHV events to pass through ACECs on roads designated open to organized OHV use (**Map 7**). No more than 10 such events will be allowed to pass through any one ACEC per year. Kane Springs

Road would be limited to a maximum of 300 vehicles per event. The remaining corridors would be limited only by restrictions imposed by adjacent planning units (refer to **Table 4**).

Adjustments to the maximum number of events will be made based on the information made available through ongoing monitoring of these types of events. Vehicle off-loading areas, if authorized within tortoise habitat, would be limited to areas of existing disturbance, and of sufficient size to accommodate the number of vehicles involved without expanding the disturbed area. Terms and Conditions and Standard Operating Conditions describes stipulations that would be attached to all Special Recreation Permits for organized OHV events in desert tortoise habitat.

Designated OHV Routes Through ACECs

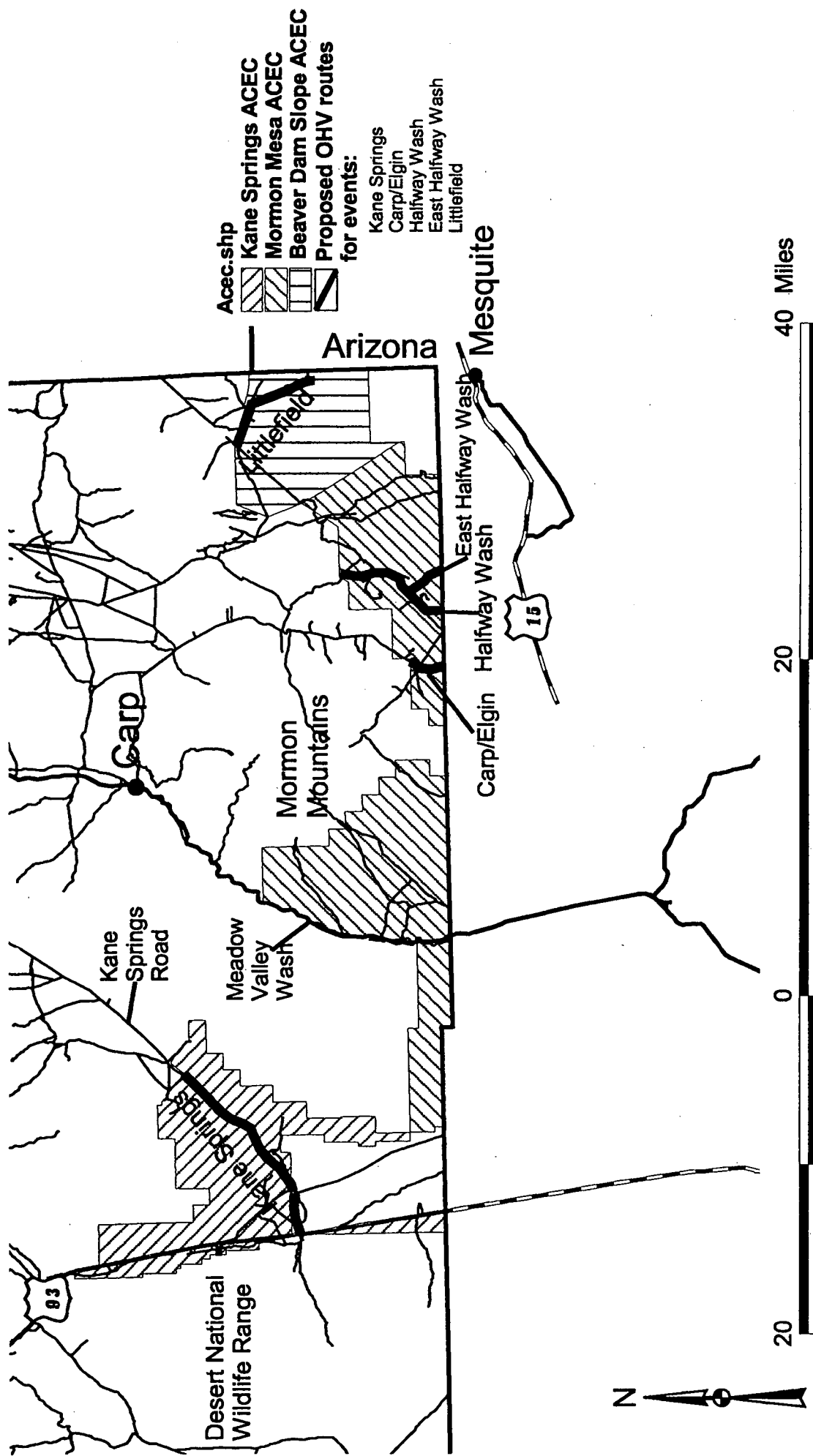


Table 4 **Summary of Limitations for Non-speed OHV Events and Non-speed Portions of Speed Events Within ACECs.**

Corridors	Carp/Elgin, Halfway Wash, and East Halfway Wash		
	Initial Level	RMP Level*	Clark County**
Maximum number of vehicles within active season (Mar 1-Oct 31):	75 with one event per ACEC with 76 to 150 vehicles and will count as two events	100	300 Events with more than 75 vehicles shall count as two events.
Dates events allowed between March 1 and Oct 31:	Mar 1-15; and Jun 15-Aug 14	Mar 1-31; June 1-Aug 14; and Oct 16-31	Mar 1-15; Jun 16-Aug 31; and Oct 16-31 The Sept. through Oct. dates may vary up to three days to allow a full weekend for an event.
Maximum number of vehicles during inactive season (Nov 1-Feb 28/29)	300	300	
Maximum number of vehicles from Oct 16-March 15			300
Minimum number of vehicles requiring permit	26	26	26
Maximum number of laps or passes	1	1	
Maximum number of events during active season w/limitations above and below	5 with no more than 3 events per ACEC; only 1 event per ACEC with 76-150 vehicles, which will count as two events.	10 with no more than 3 events per ACEC	5
Maximum number of events within inactive season (Nov 1-Feb 28/29)	12 with no more than 3 per ACEC	12 with no more than 4 events per ACEC	
Maximum number of events from Oct 16-March 15			60 with no more than one event per day.

*Limitations along these corridors are imposed under the Las Vegas RMP. The initial level of use will be imposed during the 3-year evaluation period identified in the Las Vegas RMP Biological Opinion term and condition 1.a. The maximum level is established in the Las Vegas RMP.

**This level of use is being proposed by a working group in Clark County. The RMP will be amended to accept these levels at which time they will replace the RMP Level. Until this is completed OHV use will be managed under the RMP Level.

Table 4 Summary of Limitations for Non-speed OHV Events and Non-speed Portions of Speed Events Within ACECs continued

Corridor	Littlefield*
Dates events are allowed	October 16 - March 14
Maximum number of vehicles per event	400 motorcycles 300 four-wheeled vehicles
Minimum number of vehicles requiring permit	50
Maximum number of laps or passes per event	1

*Limitations along this corridor are imposed under the Arizona Strip RMP Plan Amendment.

Corridor	Kane Springs Road*
Maximum number of vehicles per event	300
Dates events are allowed	October 16 - March 14 and June 16 - August 31
Minimum number of vehicles requiring permit	50
Maximum number of laps or passes per event	1
Maximum number of events per year from October 16 - March 15	10

*Limitations along this corridor are imposed under the Caliente MFP Plan Amendment.

Participate with the Las Vegas Field Office in the development and implementation of an OHV monitoring plan to assess impacts to tortoise and its habitat within proposed ACECs, if present, that result from casual and organized OHV activities.

Non-OHV Organized Events

Allow non-OHV organized and commercial events on a case-by-case basis.

General Recreation

Accommodate non-consumptive recreation uses (e.g. hiking, birdwatching, photography, and casual horseback riding) that do not disturb desert tortoise habitat.

Establish sites for parking and camping, where appropriate and needed to recover and/or avoid resource degradation. Improve opportunities for non-motorized recreation, including the development of interpretive sites, kiosks, and wildlife guzzlers, where appropriate and consistent with the recovery and delisting of the desert tortoise and BLM policy.

Monitor for impacts to desert tortoise habitat from recreational uses.

Outside ACECs

Casual OHV Use

Casual OHV use is limited to existing roads and vehicle trails.

Organized OHV Use

Allow speed and non-speed competitive events to occur on existing roads and vehicle trails, no off-road use is permitted.

General Recreation

Establish sites for parking and camping where appropriate and necessary to accommodate use or to reduce or avoid resource degradation.

Biological Opinion Terms and Conditions

To implement Reasonable and Prudent Measure Number 3 (**Appendix A**), the Bureau shall fully implement the following terms and conditions to reduce impacts to desert tortoise and its habitat from management of recreation activities:

- a. All ACECs will be closed to speed-competitive events and speed-based portions of OHV events.
- b. For all events: Recreation Use Permits shall be required for all non-speed OHV events with 26 or more vehicles within desert tortoise ACECs and 50 or more vehicles outside desert tortoise ACECs. Following the findings of Clark County's *Rural Roads Adaptive Management Program*, this restriction may be modified in the future to require permits for 50 or more vehicles both inside and outside ACECs. Events that originate or proceed into adjoining districts will default to the restrictions established in those districts provided the limitations identified in this biological opinion for the Ely District are not exceeded. For example, no events or segments of events may occur in the planning area that involve over 300 vehicles although up to 400 may be allowed in the Arizona Strip District.
- c. All permitted events within ACECs will occur only on designated corridors. Events that occur on the *Carp/Elgin*, *Halfway Wash*, and *East Halfway Wash* corridors will comply with terms and conditions of the biological opinion issued for the Las Vegas District RMP (File No. 1-5-98-F-053, as amended or reinitiated); events that occur on the *Littlefield* corridor will comply with terms and conditions of the biological opinion issued for the Arizona Strip District RMP (File No. 2-21-96-F-132, as amended or reinitiated); and events that enter Utah will comply with the terms and

conditions of the biological opinion issued for the Dixie RMP (File No. 6-UT-98-F-005, as amended or reinitiated). Events that occur entirely within the Ely District on the *Kane Springs Road* corridor, shall comply with terms and conditions of this biological opinion.

- d. Within ACECs: No organized events will be permitted from March 15 to June 15, and August 31 to October 15. These dates may vary up to three days to allow a full weekend (i.e., Saturday and Sunday) for an event. Outside of these times, a maximum of 15 events (non-speed events, non-speed portions of speed events, or non-competitive events) may be permitted to pass through ACECs on roads designated open to organized OHV use. No more than 10 such events will be allowed to pass through any one ACEC per year. No more than 300 vehicles of any type will be allowed on any one event. Each event will consist of no more than one pass through the ACEC.
- e. For speed events: Minors and responsible adults participating in events shall be informed that they shall not ride their ATVs or motorcycles in the desert after they finish an event. This includes the open desert as well as roads and trails. Failure to comply with this condition by any child associated with a particular rider shall result in the disqualification of that rider.
- f. For speed events, including non-speed sections: If a vehicle breaks down, it will be moved to the side of the race course, avoiding damage to vegetation to the extent possible. Participants who stop to rest will pull over onto side roads or areas devoid of perennial vegetation, if possible. Riders who voluntarily retire from the event will either wait along the course for their crew to pick them up, or travel along the course to a pit area. Chase crews will be limited to retrieving vehicles that are broken down along the course. All chase vehicles must have a pit pass, retrieval pass, or other form of access permission from the Bureau.
- g. For speed events: No spectators or spectator areas will be allowed in ACECs. Spectator vehicles will be allowed in designated spectator areas only. Spectator areas shall be confined to existing disturbed areas or new areas selected in coordination with the Service. Spectator areas are established for viewing purposes only and vehicles will be prohibited. The promoter will be required to mark the boundaries of the spectator area so that spectators can readily tell where the boundary is located. Rope or wire with warning triangles or other similar sturdy materials shall be used. A monitor will be placed at each spectator area to ensure spectators remain within the designated boundary. Anyone found outside of the designated area will be subject to citation by a Bureau law enforcement officer.
- h. For speed events: Pit crews will use only authorized pit areas. Pits shall be confined to existing disturbed areas, unless otherwise approved by the Service. Pit areas will be marked with a sign stating that a pit pass is required. A maximum of ten pit

passes will be issued to each entrant; however, in unusual cases the Bureau may authorize issuance of additional passes to meet the specific needs or conditions. Under no circumstances will the issuance of additional passes create or contribute to expansion of designated pit areas. Pit passes should be identified by color or unique number, the name and date of event, and distinguish the pit to which the pass applies (i.e., main pit or course pit), and will be affixed to the windshield of each vehicle. Vehicles in the pit area without pit passes, will be towed at the owners' expense. Unauthorized duplication of pit passes will result in disqualification of the entrant and this shall be stated on each pass.

- i. For speed events including non-speed sections: All event-related activities will be confined to authorized vehicle routes, pit areas, spectator areas, and the course itself, and will not stray into vegetated areas. All major access routes leading into restricted areas will be monitored or marked closed and bannered off. Personnel shall be stationed at these areas, as appropriate, to enforce access restrictions. Directional signs to spectator and pit areas will be posted at all main access points. "Race-in-progress" signs will be posted at each location where the race crosses another road. Other disqualification or hazard zones will be monitored periodically during the event.
- j. For all events in ACECs BLM staff will be present to check for compliance with stipulations of the race permit. The importance of staying on the race course will be stressed to all participants by the BLM and promoter.
- k. For all events: A sufficient number of Bureau rangers, monitors, and crowd control officials, as determined by the Bureau in coordination with the Service, will be required to enforce compliance with stipulations of the event permit. Monitors may be Bureau or proponent personnel and shall be stationed at all disqualification or hazard areas to record any violations. As a general guideline, the Bureau will provide one law enforcement officer per 50 participants to enforce terms and conditions of this biological opinion, control unauthorized vehicular travel off existing roads, and ensure that habitat damage does not occur. The number of law enforcement officers present may be increased or decreased based on the event proponent's past history of event management and stipulation compliance, the estimated number of spectators, geographic setting of the event, or experience gained from previous similar events, at the discretion of the Bureau's authorizing officer.
- l. For all events: Permittees shall be responsible for trash and litter clean-up along the course and in spectator and pit areas. Stakes, flagging materials, temporary facilities, litter, and all other event-related materials shall be removed from the course and pit, parking, and spectator areas. The race courses and parking areas shall be restored, at a minimum, to pre-event conditions within 15 days after the event. Garbage and food will be removed from the site of the event at the end of each day, and will be disposed of in authorized sanitary landfills.

- m. For all events including non-speed sections: To reduce casual use of the race course, the race area will be legally closed to casual use on the day of the race. The promoter will be required to station monitors and/or post signs at road intersections, prohibiting public access, where the general public is likely to access the race course. A Federal Register notice providing authority to close race areas in the Ely and Las Vegas Field Offices will be issued. This will allow Bureau law enforcement officers to enforce regulations. A legal notice will be published in the local newspapers, or other appropriate publication, before the permitted events take place.
- n. For all events: Any desert tortoises found on or adjacent to the event course shall be moved into undisturbed desert within 1,000 feet by Bureau personnel experienced or trained in the handling of tortoises, or Bureau contractors experienced and trained in the handling of tortoises according to current Service-approved protocol. Currently, the Service-approved protocol is "Guidelines for Handling Desert Tortoises During Construction Projects." Tortoises shall be deliberately moved solely for the purpose of moving them out of harm's way. Desert tortoises shall not be placed on lands not under the ownership of the Bureau without the written permission of the landowner. All personnel involved in tortoise capture shall obtain appropriate permits from NDOW prior to handling any desert tortoise. All road repair crews shall be accompanied by Bureau personnel or their designee to ensure that no tortoises or tortoise burrows are harmed during repair operations.
- o. For speed events: Publicity runs will not occur within ACECs, and all event-related vehicular activity will be confined to authorized routes and the course itself and will not stray into vegetated areas.
- p. For all events: To the extent possible, the event course shall be cleared of all unauthorized vehicles and personnel prior to each event.
- q. For all events: Participants in each event who violate any stipulation of that event shall be disqualified from the event. Additionally, failure to comply with permit conditions by any member of the support team or spectators associated with a particular driver or rider shall result in the disqualification of that driver or rider.
- r. For all events: Participants will be informed that passing will be limited to the disturbed areas of roads, trails, and washes and will not occur in vegetated areas adjacent to the course.
- s. For speed events: To help control spectators, the event promoter will station at least one person at the primary entrance to the spectator area for at least two hours before the start of the race and 1 hour after the start of the race. This individual will stop all cars coming into the area, give the occupants information on the limits of the spectator area, and advise them where they can and cannot park.

- t. For non-speed portions of speed events in ACECs: Participants will be escorted through the ACEC at a speed of no greater than 25 mph.
- u. For organized non-OHV events within ACECs: The event area will be surveyed for desert tortoise immediately prior to the event. If desert tortoise or sign of is observed, the event will be moved to a different location or set up in such a way as to avoid adverse effects to desert tortoise.
- v. Horse endurance rides will be limited to existing roads and trails. Horse endurance rides are considered speed events and will not be permitted in desert tortoise ACECs.

For any surface disturbing activities (i.e. projects) refer to the reasonable and prudent measures for surface disturbing activities under the Rights-of-Way Management section.

Standard Operating Procedures

- 1. Entrants, pit crew members, crowd control officials, race monitors, checkpoint personnel, and clean-up crews shall be informed, either through a presentation or a pamphlet, of the occurrence of desert tortoises in the race area, and the threatened status of the species. All such personnel shall be advised of the definition of "take," the potential for impacts to the desert tortoise, and the potential penalties (up to \$25,000 in fines and 6 months in prison) for taking a threatened species in a manner not permitted in the incidental take statement. The permit holder shall provide a written statement for signature acknowledging receipt of information regarding the desert tortoise and any special stipulations in place for tortoise protection from all entrants. All race monitors and check-point personnel shall be provided the race stipulations and the procedures for reporting permit violations.
- 2. All event-related vehicular activities will be confined to authorized vehicle routes and the course itself, and will not stray into vegetated areas. All major access routes leading into restricted areas will be monitored, or marked closed and bannered off. Road markers, vehicle barricades, or signs will be installed either the day of the race or the day before the race. Promoter shall station personnel at these areas, as appropriate, to enforce access restrictions. Directional signs to spectator and pit areas will be posted at all main access points. Race-in-progress signs will be posted at each location where the race crosses another road. Other disqualification or hazard zones will be monitored periodically during the event.
- 3. Terms and Conditions e, f, k, l, n and Standard Operating Procedures 1, 4, and 5 shall apply to publicity runs outside ACECs.
- 4. A representative shall be designated who will be responsible for overseeing compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in the BO. The

designated representative shall provide coordination among the permit holder, the Bureau, and the USFWS.

5. All road repair and course cleanup crews shall be accompanied by Bureau personnel or their designee to ensure that no tortoises or tortoise burrows are harmed during repair and cleaning operations.
6. Participants will be informed that passing on buggy, ATV, and motorcycle courses will be limited to the disturbed areas of roads, trails, and washes and will not occur in vegetated areas adjacent to the course.
7. Additional stipulations or modifications may be required based on terms and conditions in the biological opinion issued for a particular event (or programmatic opinion valid at the time of the event).

Implementation

Casual Off-Highway Vehicle (OHV) Use

Limit casual OHV use in ACECs to roads and vehicle trails designated for OHV use. A route inventory will be conducted. The public participation process will identify routes for designation or closure. A **Federal Register** Notice will be published, and after an appropriate comment period, BLM will:

- Post entry portals or major intersections with signs that read *Vehicle Travel Limited to Designated Roads and Trails*
- Close and rehabilitate extraneous routes
- Sign all designated routes as *Open*
- Sign designated routes to prohibit off road driving
- Enforce the ban on off road driving

Designation of roads and trails will take place within two years of the issuance of this Approved Plan Amendment and Record of Decision. Any roads that might be created following the designation process will be physically closed and rehabilitated as part of ongoing monitoring and maintenance.

Organized OHV Use

Close ACECs to all speed competitive OHV use until additional information is available regarding the impacts of these types of activities on the desert tortoise and its habitat. Should monitoring in other areas indicate that properly managed speed competitive events cause little or no adverse impacts to the desert tortoise or its habitat, these types of events will be allowed to pass through ACECs from October 15 to March 15 along the following constructed, maintained roads; Kane Springs, Carp-Elgin, Halfway Wash, East Halfway

Wash and Littlefield Roads (**Map 7**). Of these roads, only the Kane Springs Road lies entirely within the planning unit. Therefore, use of any of the other four corridors would require the concurrence of one of the adjacent administrative units. If monitoring studies indicate that there are unacceptable adverse impacts to the tortoise or its habitat, ACECs will remain closed to speed competitive OHV events.

Close ACECs to all types of organized OHV events from March 15 to June 15, and August 31 to October 15. Outside of these times, permit a maximum of 15 non-speed competitive events, non-speed portions of speed events, and non-competitive OHV events to pass through ACECs on roads designated open to organized OHV use (**Map 7**). No more than 10 such events will be allowed to pass through any one ACEC per year. Kane Springs Road would be limited to a maximum of 300 vehicles per event. The remaining corridors would be limited only by restrictions imposed by adjacent planning units (**Table 4**).

Adjustments to the maximum number of events will be made based on the information made available through ongoing monitoring of these types of events. Vehicle off-loading areas, if authorized within tortoise habitat, would be limited to areas of existing disturbance, and of sufficient size to accommodate the number of vehicles involved without expanding the disturbed area. Terms and Conditions and Standard Operating Conditions describes stipulations that would be attached to all Special Recreation Permits for organized OHV events in desert tortoise habitat.

A notice providing authority to close race areas in the Ely and Las Vegas Field Offices will be issued on an as-needed basis. This will allow Bureau law enforcement officers to enforce regulations. A legal notice will be published in the local newspapers, or other appropriate publication, before the permitted events take place.

Applications will be accepted no later than February 15 or 120 days prior to the event, whichever is earlier, for any OHV event for that calendar year which pass through ACECs. If event maximums are reached, a lottery system will be utilized to determine which applications are processed.

WILDERNESS MANAGEMENT

Within and Outside ACECs

Continue to manage WSAs contained within ACECs according to the Interim Management Policy (IMP) (**Map 6**). Should a conflict between the IMP and ACEC management prescriptions exist, manage according to the standard which provides protection for the desert tortoise and its habitat.

Should Congress release WSAs within ACECs from further consideration as wilderness, manage those areas under the ACEC management prescriptions.

Limit vehicle travel within WSAs to those routes (ways) that are designated as "open." Some routes (ways) may be designated as "closed" to achieve goals and objectives for desert tortoise habitat management.

Standard Operating Procedures

Procedures in the IMP will be followed. Should a conflict between the IMP and ACEC management prescriptions exist, manage according to the standard which provides protection for the desert tortoise and its habitat.

Implementation

Procedures in the IMP will be followed and uses found to be impairing to the WSAs will be denied.

MINERALS MANAGEMENT

Within ACECs

Kane Springs ACEC will be withdrawn and/or closed from mineral entry under the following public laws:

1. General Mining Law of 1872, as amended.
2. Mineral Leasing Act of 1920, as amended and supplemented.
3. Mineral Leasing Act for Acquired Lands of 1947, as amended.
4. Geothermal Steam Act of 1970, as amended.
5. Mineral Material Act of July 31, 1947, as amended.
6. Surface Use and Occupancy Act of July 23, 1955.

Close Kane Springs ACEC to mineral entry. Close Kane Springs ACEC to fluid and non-energy mineral leasing, to the operations of the General Mining Law, subject to valid existing rights; and closed to mineral material disposal, except a one-mile wide corridor on U.S. Highway 93, Carp-Elgin, and Kane Springs Road, for county and federal highways maintenance.

Existing mining claims would have valid existing rights and mining operations could occur in the ACEC. The withdrawal could take several years before it is designated closed and any mining claim within the withdrawal would have existing rights under the mining law. The BLM would be required to perform validity exams on the existing claims to determine if they are valid claims before any operation may proceed within the ACEC. The operation can proceed once the review of the plan of operation, NEPA review, and section 7 consultation has occurred.

Locatable Minerals

Mormon Mesa and Beaver Dam Slope ACECs will remain open to the operations of the General Mining Law of 1872, but will require a plan of operations, as outlined at 43 CFR 3809, for locatable mineral activities.

BLM must ensure through the review of the plan of operation and development of the mitigation measures that the impacts from the operation do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The operator, USFWS and BLM must also reach concurrence that proposed actions are below the jeopardy or adverse modification threshold. If it is determined that through the review of the plan of operation and the use of mitigation measures that the operation is not below the jeopardy or adverse modification threshold, the project would not go forward. The operating procedures found in the Right-of-way Management section of this document include reclamation requirements which will outline the standards that must be met before the completed reclamation is approved and the accompanying bond released. These

standards are subject to change based on the site specific conditions at the site and with consultation with the USFWS.

Fluid Minerals

The Mormon Mesa and Beaver Dam Slope ACECs will have lease operations conducted as described under the standard terms and conditions contained in the lease instrument. A stipulation to a lease is a provision that modifies standard lease rights and is attached to and made part of the lease. Resource values are also protected through restriction or conditions attached to field operations, such as applications to drill and sundry notices. These restrictions can be placed on operations on a site-specific basis to protect other resources. BLM must ensure through the review of the plan of operation and development of the mitigation measures that the impacts from the operation do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The operator, USFWS and BLM must also reach concurrence that proposed actions are below the jeopardy or adverse modification threshold. If it is determined that through the review of the plan of operation and the use of mitigation measures that the operation is not below the jeopardy or adverse modification threshold, the project would not go forward.

Standard practices and procedures for geophysical exploration and conditions of approval for application permits to drill under this alternative are described in the right-of-way management section. These operating procedures include reclamation requirements which will outline the standards that must be met before the reclamation is released. These standards are subject to change based on the site specific conditions at the site and with consultation with the USFWS.

Under certain conditions, grant waivers, exceptions, and modification of lease stipulations. A waiver is a permanent exemption of lease stipulation. An exception is a one time exemption to a lease stipulation which is determined on a case-by-case basis. A modification is a change to the provision of a leased stipulation, either temporarily or for the term of the lease. Waivers, exceptions or modifications can only be approved by the Authorized Officer.

Stipulations could not be legally attached to existing leases, without the consent of the lessee. The existing stipulations attached to the lease are retained as long as the lease is valid. If the acreage involved in these expired leases is re-offered for leasing, the new stipulations developed under this alternative would be attached to the new lease.

Leasing stipulations are as follows:

1. Open to leasing with minor restrictions (timing limitations).

No surface use is allowed from March 15 to October 15. This stipulation does not apply to operation and maintenance of production facilities.

2. Open to leasing with minor restrictions (controlled surface use).

Unless otherwise authorized, access to this leasehold, and operations will be limited to the existing roads and trails.

A leasing notice providing guidance for plan development will be included on all leases. Section 7 consultation will be completed prior to any surface disturbance in desert tortoise habitat. BLM must ensure through the review of the application permit to drill and development of the mitigation measures that the impacts from the operation do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The operator, USFWS and BLM must also reach concurrence that proposed actions are below the jeopardy or adverse modification threshold. If it is determined that through the review of the plan of operation and the use of mitigation measures that the operation is not below the jeopardy or adverse modification threshold, the project would not go forward.

Mineral Materials

Close the Kane Springs, Mormon Mesa and Beaver Dam Slope ACECs to mineral material disposal except a one mile wide corridor, one half mile each side of the road on designated roads (U.S. Highway 93 and Carp-Elgin and Kane Springs roads) for the disposal of mineral material through free use permits and Federal Highway material site rights of ways. These authorizations are for local, county and state governments. Existing pits and designations identified as not needed to meet current and future demand will be closed and reclaimed. There will be a restriction of ten miles between each mineral material site.

Any authorizations through free use permits or Federal Highway material site rights-of-way will be subject to operating procedures described in the right-of-way management section. BLM must ensure through the review of the plan of operation and development of the mitigation measures that the impacts from the operation do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The operator, USFWS and BLM must also reach concurrence that proposed actions are below the jeopardy or adverse modification threshold. If it is determined that through the review of the plan of operation and the use of mitigation measures that the operation is not below the jeopardy or adverse modification threshold, the project would not go forward. These operating procedures include reclamation requirements which will outline the standards that must be met before the reclamation is released. These standards are subject to change based on the site specific conditions at the site and with consultation with the USFWS.

Non-Energy Leasable Minerals

The Mormon Mesa, and Beaver Dam Slope ACECs will remain open to non-energy mineral leasing.

Apply SOPs to prevent undue or unnecessary surface disturbance are described in the right-of-way management section. BLM must ensure through the review of the plan of operation and development of the mitigation measures that the impacts from the operation do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The operator, USFWS and BLM must also reach concurrence that proposed actions are below the jeopardy or adverse modification threshold. If it is determined that through the review of the plan of operation and the use of mitigation measures that the operation is not below the jeopardy or adverse modification threshold, the project would not go forward.

These operating procedures include reclamation requirements which will outline the standards that must be met before the reclamation is released. These standards are subject to change based on the site specific conditions at the site and with consultation with the USFWS.

Leasing stipulations are as follows:

1. Open to leasing with minor restrictions (timing limitations). No surface use is allowed from March 15 to October 15. This stipulation does not apply to operation and maintenance of production facilities.
2. Open to leasing with minor restrictions (controlled surface use). Unless otherwise authorized, access to this leasehold will be limited to the existing roads and trails.

A leasing notice providing guidance for plan development will be included on all leases. Section 7 consultation will be completed prior to any surface disturbance in desert tortoise habitat.

Outside ACECs

Locatable Minerals

BLM must ensure through the review of the plan of operation and development of the mitigation measures that the impacts from the operation do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The operator, USFWS and BLM must also reach concurrence that proposed actions are below the jeopardy or adverse modification threshold. If it is determined that through the review of the plan of operation and the use of mitigation measures that the operation is not

below the jeopardy or adverse modification threshold, the project would not go forward. Operators submitting a notice for activities within desert tortoise habitat, but outside of ACECs, will be informed by BLM of their responsibilities to comply with specific provisions of the ESA.

Required Standard Operating Procedures are described in the right-of-way management section.

Fluid Minerals

Management objectives and direction would be the same as those described under the Special Management Area section. If a jeopardy opinion is issued from the USFWS, the operation would be modified until a no jeopardy is issued or no drilling would occur.

Mineral Materials

Desert tortoise habitat would remain open for mineral material disposal.

Require implementation of those SOPs for all mineral material activities in desert tortoise habitat are described in the right-of-way management section. BLM must ensure through the review of the plan of operation and development of the mitigation measures that the impacts from the operation do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The operator, USFWS and BLM must also reach concurrence that proposed actions are below the jeopardy or adverse modification threshold. If it is determined that through the review of the plan of operation and the use of mitigation measures that the operation is not below the jeopardy or adverse modification threshold, the project would not go forward.

Non-Energy Leasable Minerals

All desert tortoise habitat would remain open to non-energy mineral leasing.

Apply SOPs to prevent undue or unnecessary surface disturbance are described in the right-of-way management section. BLM must ensure through the review of the plan of operation and development of the mitigation measures that the impacts from the operation do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The operator, USFWS and BLM must also reach concurrence that proposed actions are below the jeopardy or adverse modification threshold. If it is determined that through the review of the plan of operation and the use of mitigation measures that the operation is not below the jeopardy or adverse modification threshold, the project would not go forward.

Biological Opinion Terms and Conditions

Refer to the Rights-of-Way Management section to implement reasonable and prudent measures for surface disturbing activities.

Standard Operating Procedures

Refer to the Rights-of-Way Management section for a listing of SOPs for surface disturbing activities.

Implementation

1. Consultation with the USFWS is required per Section 7 of the Endangered Species Act before the project can be approved if the bureau determines that the proposed action may affect the desert tortoise. If consultation determines that an adverse impact to the desert tortoise or its habitat will occur, the proposal must be modified or denied per appropriate regulations.
2. Operators submitting a notice for activities within desert tortoise habitat will be informed by BLM of their responsibilities to comply with specific provisions of the Endangered Species Act.
3. The operator of mineral actions will conform to all Federal and State laws and regulations, including terms and conditions of biological opinions.
4. Prior to the issuance of any material contract, free use permit, material site right-of-way, letter of authorization to conduct sampling and testing, FLPMA right-of-way or Land Use Authorization, all applicants could pay a Section 7 fee for the on-site and off site mitigation of desert tortoise habitat or rehabilitated desert tortoise habitat. The fee amount will be determined by the Authorized Officer.
5. The fluid mineral leasing requirements will be implemented on the first lease sale of land in this area after this decision. Solid Leasable mineral leasing decisions will be attached to solid leasing prospecting permits and to any lease after this decision.
6. The Ely Field Office will develop the withdrawal application for the Kane Springs ACEC within the first two years and submit it through the Nevada State Office to the BLM Washington Office. Once the application has been approved the Ely Field Office will complete the requirements for a withdrawal.

FIRE MANAGEMENT

Within and Outside ACECs

Initiate full suppression activities with minimum surface disturbances to reduce loss of tortoise cover and to minimize the spread of exotic annual grasses.

Require consultation with a qualified Resource Advisor for all wildfires within ACECs.

Restrict OHV travel and the use of tracked vehicles to the minimum necessary to suppress wildfires in ACECs; obliterate all tracks to reduce possibility of future use.

Authorize use of aerial retardant; foam or fugitive retardant is preferable to iron oxide retardant.

Do not authorize burning out of unburned fingers or islands of vegetation. The exception to this case would be the removal of fuels for safety concerns.

Establish fire camps, staging areas, and heliports in previously disturbed areas outside of ACECs, where possible, in consultation with a qualified Resource Advisor.

Use prescribed fire or other tools consistent with recovery goals and objectives to help reduce the burn-reburn cycle.

Provide all firefighters and support personnel with a briefing on desert tortoises and their habitat to minimize take, particularly that associated with vehicle use.

Biological Opinion Terms and Conditions

To implement Reasonable and Prudent Measure Number 4 (**Appendix A**), the Bureau shall fully implement the following terms and conditions to reduce impacts to the desert tortoise and its habitat from fire management:

- a. A qualified resource advisor will be assigned to each wildfire and will provide relevant information on the occurrence of desert tortoise and important habitat to the incident commander. The resource advisor serves as the field contact representative responsible for compliance with this biological opinion and coordination with the USFWS.
- b. Do not authorize burning out of unburned fingers or islands of vegetation.
- c. Establish fire camps, staging areas, and heliports in previously disturbed areas outside of ACECs, where possible, and in consultation with a qualified resource advisor. Prior to use of any undisturbed area, the area will be surveyed by a qualified desert tortoise

biologist, providing 100-percent coverage of the area. If a desert tortoise burrow is found during the survey, the burrow shall be flagged and the project boundaries shall be adjusted, if possible, to avoid the burrow. If avoidance is not possible, a qualified desert tortoise biologist shall examine the burrow for occupancy by tortoises. Any desert tortoises found in burrows or within project areas shall be relocated.

- d. Restrict off-road travel and use of tracked vehicles to the minimum necessary to suppress wildfires. All vehicles shall park as close to the road as possible using disturbed areas or wide spots in the road to turn around. All tracks will be obliterated immediately following fire suppression activities, to the extent possible.
- e. Provide all firefighters and support personnel with a briefing on desert tortoises and their habitat to minimize take, particularly that associated with vehicle use.
- f. Fire suppression vehicles shall drive slow enough to ensure that tortoises on roads can be seen and avoided.
- g. If possible, fire lines and disturbances associated with fire suppression activities should be rehabilitated using seeding or planting of native perennials. Recovery of vegetation in burned areas shall be monitored, including the establishment of paired plots, inside and outside of burned areas.
- h. The Bureau shall conduct post-fire suppression surveys to identify desert tortoise mortalities. Reports of any take of desert tortoise shall be reported by the resource advisor.

Implementation

Incorporate terms and conditions into Ely Field Office fire suppression policy and Wild Fire Situation Analysis (WFSA) on all fires.

TRANSPORTATION/PUBLIC ACCESS MANAGEMENT

Within ACECs

Close and rehabilitate any existing roads within ACECs where no public or administrative need can be demonstrated (e.g. two roads that parallel each other to the same destination). Public participation process will be used to identify any road closures, with input solicited from all interested parties prior to the issuance of any decisions.

Restrict the establishment of new permanent roads. Allow temporary upgrading of existing roads only to reduce impacts on tortoise habitat.

Allow new access routes only on a temporary basis or if positive benefits to desert tortoise would occur. Require reclamation of any temporary roads.

Reroute roads where feasible to improve manageability of habitat.

Implement closure to vehicular access, with the exception of designated routes.

Coordinate with USFWS, Lincoln County Road Department, and NDOT to identify any roads and trails that are the cause of tortoise mortality due to impacts from vehicles when possible. Fence and install culverts along these and other roads when appropriate to allow for the safe passage of tortoises.

Outside ACECs

Install tortoise caution signs at entry points to desert tortoise habitat (e.g. Kane Springs Road, Meadow Valley Wash).

Biological Opinion Terms and Conditions

Refer to applicable terms and conditions in the Rights-of-Way Management section relating to surface disturbing activities.

Standard Operating Procedures

Refer to applicable SOPs in the Rights-of-Way Management section relating to surface disturbing activities

Implementation

Incorporate this section into the Ely Field Office transportation and access planning process.

OTHER TERMS AND CONDITIONS THAT APPLY TO ALL RESOURCES

To implement Reasonable and Prudent Measure Number 6 (**Appendix A**), the Bureau shall fully implement the following terms and conditions for all actions covered under this biological opinion, to reduce impacts to desert tortoise from predators:

- a. A litter-control program shall be implemented to minimize predation on tortoises by ravens drawn to the project site. This program will include the use of covered, raven-proof trash receptacles, removal of trash from project areas to the trash receptacles following the close of each work day, and proper disposal of trash in a designated solid waste disposal facility. Appropriate precautions must be taken to prevent litter from blowing out along the road when trash is removed from the site. The litter-control program should apply to all actions covered under this biological opinion. A litter-control program shall be implemented by the responsible federal agency or their contractor, to minimize predation on tortoises by ravens and other predators drawn to the project site.

To implement Reasonable and Prudent Measure Number 7 (**Appendix A**), the Bureau shall fully implement the following terms and conditions for all actions covered under this biological opinion, to educate project personnel on the desert tortoise and its habitat:

- a. The Bureau shall present a tortoise-education program to all personnel working on projects or activities covered under this biological opinion. This program shall be presented by a qualified tortoise biologist for those projects with the greatest potential impacts to desert tortoises. A video or fact sheet, as approved by the Service, may be presented or provided in lieu of a presentation for those projects with low potential impacts. A tortoise-education program will be given to, but not limited to: OHV event entrants, pit crew members, crowd-control officials, race monitors, checkpoint personnel, clean-up crews, foremen, workers, grazing allotment permittees, landowners that receive lands transferred from the Bureau under this opinion, hazardous materials management staff, fencing crews, fire suppression personnel, and others as appropriate.
- b. The program will include information on the life history of the desert tortoise, legal protection for desert tortoises, penalties for violations of federal and state laws, general tortoise-activity patterns, reporting requirements, measures to protect tortoises, terms and conditions of this biological opinion, and personal measures employees can take to promote the conservation of desert tortoises. The definition of take will also be explained. Specific and detailed instructions will be provided on the proper techniques to capture and move tortoises which appear onsite, in accordance with this biological opinion and Service-approved protocol. The presentation shall be prepared within one year from the date of this opinion and approved by the Service prior to implementation. Workers will be encouraged to car pool to and from project sites.

To implement Reasonable and Prudent Measure Number 8 (**Appendix A**), the Bureau shall fully implement the following terms and conditions for all actions covered under this biological opinion, to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and re-initiation requirements contained in this biological opinion:

- a. The project applicant shall notify the Bureau's authorized officer at least ten days before initiation of any project. Notification shall be made to the Bureau's wildlife staff in Caliente at (775)726-8100 or Ely at (775)289-1800.
- b. The Bureau (775/726-8100-Caliente, or 775/289-1800-Ely), and the Service's Southern Nevada Field Office (702/647-5230) must be notified of any desert tortoise death or injury due to the project implementation by close of business on the following work day. In addition, the Service's Division of Law Enforcement shall be notified in accordance with the reporting requirements of this biological opinion.
- c. All appropriate NDOW permits or letters of authorization shall be acquired prior to handling desert tortoises and their parts, and prior to initiation of any activity which may require handling tortoises.
- d. The project proponent must submit a document to the Bureau within 30 days of completion of the project, showing the number of acres disturbed; remuneration fees paid; and number of tortoises taken, which includes capture and displacement, killed, injured, and harassed by other means, during project activities covered under this biological opinion.
- e. All projects to be covered under this biological opinion shall be reviewed by the Bureau's wildlife staff to ensure that appropriate measures have been incorporated into the Bureau authorization (e.g., material site, land sale, or OHV event) to minimize the potential take of desert tortoise and loss of habitat. If determined appropriate by the authorized officer, the Bureau shall impose additional minimization measures beyond those required in other terms and conditions of this biological opinion, prior to approval or authorization of the proposed action.
- f. The Bureau will keep an up-to-date log of all actions taken under this consultation; number of acres affected; results of tortoise survey and removal activities (including reported number of desert tortoises injured, killed, or removed from the project site); date, rate (per acre adjusted for inflation) and amount of fees paid for each project; and progress of recovery actions. The Bureau will provide the above information to the Service's Southern Nevada Field Office annually. Annual reports will be due on February 1st, for the previous calendar year in which actions were covered under this biological opinion. Information will be cumulative throughout the life of this

consultation. Annual reports shall include maps showing the location of actions within ACECs authorized under this opinion and other information required in this biological opinion.

- g. For those actions identified in this biological opinion that require concurrence between the Bureau and the USFWS, written notification of proposed changes or actions will be made a minimum of 30 days in advance. Both agencies will coordinate to the maximum extent practicable to achieve resolution. This may include informal meetings to discuss proposed actions and reach concurrence, or written correspondence.
- h. In accordance with *Procedures for Endangered Species Act Compliance for the Mojave Desert Tortoise*, a qualified desert tortoise biologist should possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related fields as determined by the Bureau. The biologist must have demonstrated prior field experience using accepted resource agency techniques to survey for desert tortoises and tortoise sign, which should include a minimum of 60 days field experience. All tortoise biologists shall comply with the USFWS-approved handling protocol prior to conducting tasks in association with terms and conditions of this biological opinion. In addition, the biologist shall have the ability to recognize tortoise sign and accurately record survey results.
- i. A Bureau representative(s) shall be designated who will be responsible for overseeing compliance with the reasonable and prudent measures, terms, and conditions, reporting requirements, and re-initiation requirements contained in this biological opinion. The designated representative shall provide coordination among the permittee, project proponent, the Bureau, and the Service.

MONITORING AND EVALUATION OF THE APPROVED PLAN AMENDMENT

Implementation of the APA will be monitored annually. The Five Year Evaluations of these decisions will be done in accordance with the State Director's Schedule for monitoring of the Caliente MFP. Effectiveness of the decisions in this amendment to help recover and delist the desert tortoise within a multiple use management context will be evaluated to determine whether changes are needed.

CONSISTENCY

The APA will amend the approved Caliente MFP for the planning area; it does not address the management of areas outside of the planning area. The APA is in conformance with the remainder of the decisions contained within the approved MFP. The APA also conforms to the Standards and Guidelines for Rangeland Health recommended by the Mojave-Southern Great Basin Resource Advisory Council to the BLM Nevada State Director in 1996 and approved by the Secretary of the Interior on February 12, 1997.

Management of non-speed OHV events in the APA differs from adjacent BLM field office plans. The Las Vegas Field Office in Nevada proposes an array of restrictions including limiting numbers of events per year and per ACEC according to active or inactive season of the tortoise, requiring special recreation permits for small organized events, closing the ACECs for brief periods at the beginning and end of the tortoise active season, etc. The Arizona Strip Field Office in Arizona would close ACECs to non-speed events during the tortoise active season. The Dixie Field Office, Utah, and the Tonopah Field Station, Nevada, will limit non-speed OHV events to designated roads without seasonal or other restrictions.

The Ely Field Office would close ACECs to all organized OHV activity during the tortoise's most active periods, similar to one of the restrictions within the Las Vegas RMP, but would allow non-speed OHV events to pass through ACECs on designated corridors at all other times of the year, similar to plans in existence within the Dixie and Tonopah Field Offices. The Recovery Plan identifies "all vehicle activity off of designated roads [and] all competitive and organized events on designated roads" as "generally incompatible with desert tortoise recovery and other purposes of Designated Wildlife Management Areas." The OHV management strategy outlined in this APA is consistent with the Recovery Plan in restricting vehicular access to designated routes, but would be inconsistent in permitting organized OHV events to pass through the ACECs.

The APA is consistent with the approved resource-related policies and programs of other federal agencies, Indian tribes, and the State of Nevada. Approved land use plans for adjacent federal administrative units include the Stateline RMP, the Esmeralda-Nye RMP, Arizona Strip Field Office RMP, the Virgin River MFP, the Nellis Air Force Range Resource Plan, and the Desert Wildlife Range Management Plan. Plans approved by adjacent counties include the Clark County Desert Conservation Plan (Nevada) and the Washington County (Utah) HCP.

The APA is also consistent with the Lincoln County Policy Plan for the Management of Public Lands, which recommends that federal land managing agencies "identify, protect, and preserve wildlife species and habitats on public lands". The Policy Plan also recommends that "the Federal Government should continue to make public rangelands economically and realistically available for livestock grazing, where compatible with other multiple use objectives." Further, the Lincoln County Policy Plan endorses the management of off-highway vehicle use on public lands "to minimize negative environmental impacts."

Management actions identified in the APA would not be consistent with a resolution passed by the Lincoln County Commissioners on June 20, 1994. This resolution states that the Lincoln County Commission is "adamantly opposed ... to land exchanges or transfers that take land either off of county tax rolls or place land into a tax exempt status." Reference is made to acquisition of the lands through exchange, in these cases private lands could be taken off of the county tax roles and therefore be inconsistent with the County Resolution.

PUBLIC AVAILABILITY

This document has been sent to all persons and agencies participating in this planning effort as identified on the mailing list developed for the Proposed Plan Amendment and Final Environmental Impact Statement.

PART II: RECORD OF DECISION

DECISION

The decision is made to select the Proposed Plan Amendment which is the Caliente Management Framework Plan Amendment. This amendment will amend the Caliente Management Framework Plan to assist in the recovery and delisting of the Mojave population of desert tortoise in the Northeastern Mojave Recovery Unit within a multiple-use management context. The proposed amendment contains four major components:

1. Designation of three ACECs with associated management prescriptions;
2. Management prescriptions for desert tortoise habitat inside and outside of ACECs;
3. Participation in a USFWS-developed and implemented environmental education program; and
4. Implementation of the USFWS-approved interagency monitoring program.

Three ACECs would be designated and managed primarily for the recovery of the desert tortoise. These ACECs would encompass 212,500 acres or approximately 83 percent of the critical habitat designated by the USFWS for desert tortoise in Lincoln County. Management direction is also proposed for desert tortoise habitat outside of the ACECs, in order to improve that habitat and be consistent with recovery efforts by other agencies.

These decisions are presented in detail in Part I: Approved Plan Amendment section of this document.

ALTERNATIVES INCLUDING THE PROPOSED AMENDMENT

Proposed Action (Proposed Amendment)

The Proposed Action focuses on desert tortoise recovery and delisting within a multiple-use management context, while minimizing effects on human activities that occur in desert tortoise habitat. It is based on recommendations derived from the Recovery Plan, as well as management actions designed to be consistent with those proposed by adjacent BLM field offices. The Proposed Action includes management objectives and goals intended to benefit desert tortoise habitat both within and outside of the proposed ACECs. Nominations for the ACECs were provided by interested groups or members of the public. The locations and boundary configurations for these areas were based on input received during public scoping for this plan amendment and field trips with the USFWS, adjoining BLM offices, and State Wildlife Agencies. Section 7 consultation on any federal action that may affect listed species would be completed prior to the issuance of authorizations within desert tortoise habitat.

The actions and prescriptions in this alternative are consistent with balanced multiple use and ecosystem management.

Alternative A (Habitat Management Alternative)

Alternative A (Habitat Management Alternative) contains management goals, objectives, and prescriptions that are similar to those described in the Proposed Action, with the exception of Livestock Grazing, Recreation Management, and Minerals Management. Under this alternative, multiple use would be modified by prescriptions for livestock grazing, minerals, and recreational uses within the three proposed ACECs. Section 7 consultation for any federal action that may affect listed species would continue to be completed prior to the issuance of authorizations.

Alternative B (DWMA Alternative)

Alternative B (DWMA Alternative) contains management goals, objectives, and prescriptions recommended by the Recovery Plan, with less emphasis on multiple use management. Boundary configurations for the proposed DWMA's were developed from maps and data contained in the Recovery Plan. Management prescriptions would be applied only within the proposed DWMA's, since the Recovery Plan states that "no active management is recommended" for desert tortoise populations outside of DWMA's, unless those populations are in jeopardy. The exception to this would be that should the lands legislatively leased or conveyed through P.L. 100-275 become available, the BLM would attempt to acquire them and include them in the Mormon Mesa DWMA. Section 7 consultation on any federal action that may affect listed species would continue to be completed prior to the issuance of surface-disturbing land use authorizations.

Alternative C (No Action Alternative)

Alternative C (No Action Alternative) would continue management under the approved MFP and activity plan decisions. No management recommendations from the Recovery Plan would be implemented. Although the Caliente MFP was approved prior to the development of the **BLM Rangewide Plan for Desert Tortoise**, the decisions contained in the MFP are consistent with that plan. The approved MFP decisions are also consistent with the designation of critical habitat, since that designation "does not offer specific direction for managing desert tortoise habitat" (**Federal Register**, pg. 5833, Vol. 59, No. 26, Tues. Feb. 8, 1994). Section 7 consultations with the USFWS, required by the ESA, would continue to be completed for any federal actions that could affect a listed species or its habitat; prescriptions resulting from those consultations would provide BLM management direction for desert tortoise habitat.

One important change since the approval of the Caliente MFP in 1982 has been the issuance of decisions that restrict livestock grazing within allotments in desert tortoise habitat during

tortoise spring activity periods (March-June). A biological evaluation of livestock grazing in desert tortoise habitat was submitted to the USFWS in 1991. The Section 7 consultation resulted in a Biological Opinion that contained a non-discretionary condition precluding livestock grazing from March 1 through June 14 of each year. The seasonal prescription on livestock grazing in desert tortoise habitat is now part of the No Action Alternative. The BLM issued "full force and effect" decisions to the grazing permittees, based on that Biological Opinion. The decisions were appealed by the livestock operators. In November 1995, an Administrative Law Judge for the Interior Board of Land Appeals upheld the BLM decisions. Subsequent to that ruling, the Desert Livestock Producers filed suit in Federal District Court seeking a permanent injunction against BLM to stay the Livestock Grazing decision that implemented the Biological Decisions. This case is currently pending.

Following the USFWS designation of critical habitat in 1994, BLM reinitiated Section 7 consultation on livestock grazing in desert tortoise habitat. Full force and effect decisions were issued to grazing permittees, based on the resulting Biological Opinion issued by the USFWS. These decisions were also appealed. The livestock grazing portion of Alternative C (No Action Alternative) in the Draft Plan Amendment is based on the 1991 and 1994 evaluations and the resultant Biological Opinions.

Another change in management direction since the approval of the Caliente MFP concerns Special Recreation Permits in the planning area. As a result of Section 7 consultation in 1995, the USFWS issued a programmatic Biological Opinion for speed-based off-highway vehicle (OHV) events in tortoise habitat, outside of designated critical habitat. The Biological Opinion limits the number of speed events that can be held in tortoise habitat on an annual basis and requires the routing of the events on previously used courses. The management direction for speed-based competitive events under Alternative C (No Action Alternative) is based on the 1995 Biological Opinion.

ENVIRONMENTALLY PREFERABLE ALTERNATIVE

The Agency Preferred Alternative (Proposed Amendment) is the environmentally preferable alternative and is approved as the amendment to the Caliente MFP (Part I: Approved Plan Amendment).

MANAGEMENT CONSIDERATIONS

The decision to approve the plan amendment takes into account statutory, legal and national policy considerations. The analysis in the draft and final EISs was based on evaluation of the planning area to aid in the recovery and delisting of the desert tortoise in the Northeastern Mojave Recovery Unit while evaluating the effects of tortoise and tortoise habitat protection on other human activities that occur on the public lands. The constraints placed on these human activities were reviewed in light of tortoise protection and major conflicts resolved to provide a balance between protection of tortoise and their habitat and the other human

activities. The decision was also based on input provided by and received from the public, industry, as well as other federal and state agencies. Through this review process, all practicable methods to reduce environmental harm to tortoise, without being overly restrictive to the other human activities were incorporated into this plan amendment. To this end, Section 7 consultation, per the requirements in the Conner v. Burford decision, was completed and a “non-jeopardy” Biological Opinion was received from the USFWS. The decisions are consistent with BLM’s multiple use mandate under the Federal Land Policy and Management Act of 1976 and with supplemental program guidance for all other resources.

MITIGATION AND MONITORING

Mitigation Measures: The following mitigation measures are made part of this decision.

Issue: Water loss in tortoise habitat for other wildlife species from closure of grazing allotments

Mitigation Measure 1: As needed construct wildlife guzzlers or catchments with tortoise exclusion devices to mitigate loss of water.

Effectiveness: This measure would provide water for wildlife species to offset the closure of grazing stock water locations.

Mitigation Measure 2: Maintain existing range projects.

Effectiveness: This measure would provide for current range projects to be maintained and not removed from the area. Water sources would continue to be available to wildlife species.

Issue: Loss of tortoise from drowning in water developments

Mitigation Measure 3: As needed retrofit existing wildlife guzzlers and catchments with tortoise exclusion devices to prevent their drowning.

Effectiveness: This would reduce the mortality of desert tortoise.

Issue: Loss of desert tortoise habitat

Mitigation Measure 4: Implement removal of wild horses and burros that establish home ranges within designated special management areas for desert tortoise.

Effectiveness: The removal of wild horses is needed to protect tortoise habitat. Removal of wild horses would allow recovery of desert tortoise and their habitat.

Mitigation Measure 5: All disturbed areas will be reclaimed to provide for desert tortoise habitat.

Effectiveness: Offset the loss of surface disturbance activities with the reclamation of the site.

Issue: Vegetation

Mitigation Measure 6: As needed establish EMZs where management techniques are developed to replace non-native annuals with native perennials.

Effectiveness: The removal of non-native vegetation would allow better forage habitat for the desert tortoise.

Issue: Predators

Mitigation Measure 7: Encourage power companies to install effective anti-perching devices on existing transmission towers and pole line structures within tortoise habitat.

Effectiveness: Eliminate perching areas from which avian predators can prey on tortoise.

Mitigation Measure 8: BLM will initiate procedures to clean up unauthorized dumps, spills and crashes within tortoise habitat.

Effectiveness: Reduce food sources for predators that could prey on tortoises during active periods.

Mitigation Measure 9: In cooperation with landfill operators, State and Federal regulatory agencies, establish measures to prevent raven and coyote use of garbage as a food source.

Effectiveness: Reduce the number of predators that could use tortoise as a prey.

Issue: Fire

Mitigation Measure 10: Use green-stripping and/or firebreaks within tortoise habitat to help prevent spread of wildfire.

Effectiveness: Reduce the amount of acreage that can be damaged from wildfire. More forage available for tortoise.

Mitigation Measure 11: Rehabilitate wildfires with native species that are desirable forage for desert tortoise.

Effectiveness: The seeding will allow native species to grow with moisture and provide forage vegetation to tortoises during active periods. However, this measure would be limited since the probability for seeding success is very low in desert ecosystems.

Monitoring:

In addition to the monitoring identified in the BO Terms and Conditions, the following monitoring is made part of this decision.

Monitoring of tortoise habitat conditions would continue to determine effectiveness of the management prescriptions.

Monitoring OHV use and its direct and indirect effects on the tortoise and habitat would occur in coordination with an interagency team (adjoining BLM Field Offices, USFWS, NDOW, MOG, and research institutions).

Census wild horse and burro populations within the planning area to determine wild horse and burro use within ACECs following removal activities, and to monitor population levels within HMA boundaries but outside of ACEC boundaries. Monitor wild horse and burro utilization levels within HMAs to determine if identified AMLs are still representative of management objectives for each HMA within the planning area.

Monitoring will occur within ACECs to ensure that livestock remain out of the ACECs. Monitoring of livestock grazing will occur on those areas outside of ACECs. Monitoring will be in accordance with BLM's policy and technical procedures.

Monitoring of mineral operations would occur before, during, and after operation and continue yearly until reclaimed. Each operation would be reviewed yearly and depending on the mineral program requirements more often.

PUBLIC INVOLVEMENT

Scoping

Two scoping periods, totaling 145 days, were held during the preparation of the Draft Plan Amendment/DEIS. Scoping was initiated on December 5, 1994 and continued until March 7, 1995. Over 300 letters were sent out to individuals, interest groups, and other agencies requesting input and issue identification. Legal notices announcing the scoping period were placed in newspapers serving Lincoln County and Las Vegas, Nevada, as well as St. George, Utah. A news article in the **Lincoln County Record** newspaper provided information on the plan amendment process for local residents. A Notice of Intent to prepare a plan amendment was published in the **Federal Register** (pg. 5694, Vol. 60, No. 19, Monday, January 30, 1995).

In March of 1995, BLM determined that the scope of the plan amendment necessitated the preparation of an EIS. An additional scoping period was initiated on April 4, 1995. Over 700 letters were sent to individuals, organizations, and governmental entities notifying them of the change and requesting their input or concerns. All who were contacted during the initial scoping period and those who indicated interest in this planning process were contacted during this second request for public participation. Legal notices were again published in newspapers in Lincoln County, Las Vegas, and St. George. A second Notice of Intent was published in the **Federal Register** (pg. 19761, Vol. 60 No. 76, Thursday, April 20, 1995).

In November of 1997, inquiries were sent to individuals, organizations, and/or groups who had indicated their interest during the scoping period and to individuals, organizations, and/or groups on the Ely Field Office mailing list who had indicated interest in activities occurring in Lincoln County to determine if they were still interested in the process and wanted to receive a copy of the draft EIS. This inquiry was sent to approximately 1,200 individuals, organizations, and/or groups, with 230 indicating that they were still interested.

Public Meetings

The public meetings were held to gather public input, identify issues, and develop alternatives for consideration in planning process. Those in attendance were also asked to recommend configurations and boundaries for any special management areas that might be proposed to assist desert tortoise recovery and delisting. These meetings were held in Caliente, on February 21, 1995 and in Las Vegas, on February 22, 1995. A total of 44 individuals attended the meetings: 34 in Caliente and 10 in Las Vegas.

The public meeting in Caliente was attended primarily by livestock permittees. Many of those who commented expressed opposition to any special management for desert tortoise or changes in multiple use management on public lands. Several persons recommended possible configurations for special management areas that would minimize the impacts on public lands users.

The meeting in Las Vegas was attended by representatives of OHV groups, mining interests, and livestock permittees. Participants suggested boundaries for special management areas and recommended OHV race routes that should be designated through any special management areas that might be proposed for desert tortoise.

Written Comments

The two scoping periods for the Caliente MFP amendment/EIS generated 53 written comments. All correspondence relating to the amendment are available for review at the Caliente Field Station in Caliente, Nevada. The written comments are summarized as follows.

Two persons expressed concerns relating to mining issues and the continued access to public lands for mineral exploration and development. General opposition to any special management actions for desert tortoises on public lands was expressed by 19 persons. Two individuals providing written comments expressed support for actions to recover the desert tortoise. Five individuals expressed concern that OHV use might be eliminated or constrained on public lands in desert tortoise habitat. Three persons were opposed to restrictions on land uses. A total of 10 individuals expressed concerns that livestock operations would be constrained or restricted in desert tortoise habitat. Two individuals provided comments expressing concern over restrictions on the management of wild horses and burros on public lands. One individual asked for additional information about ACECs while eight others requested to be placed on the mailing for this planning process. Inquiries were received from two U.S. Senators regarding the scope and intent of the plan amendment.

Protests

There were seven protests received concerning the Proposed Plan Amendment. The Director of the Bureau of Land Management responded and concluded for each one that "...there is no basis for changing the Proposed Plan Amendment as result of your protest." Therefore, the APA is unchanged from the Proposed Plan Amendment based upon protests.

Consultation

The Tribal Council of the Moapa Band of Paiutes was consulted during the preparation of this plan amendment. The Moapa Band of Paiutes hold grazing privileges on the Rox-Tule Allotment, located on public lands within the planning area. Coordination meetings were also held with representatives of the Tribal Council and the Bureau of Indian Affairs to discuss issues and concerns relating to the plan amendment.

As mandated by Section 7 of the ESA, federal agencies are required to consult with the USFWS prior to the authorization or implementation of any project which may affect any federally listed species or their habitat. Several consultations have been conducted on various versions of the document: 1) informal consultation on the **Preliminary Draft MFP**

Amendment/EIS on August 8, 1995; 2) technical comments on the **Draft Cumulative Impact Analysis of the Desert Tortoise Land Use Plan Amendment to the Caliente Management Framework Plan** on June 5, 1996; and 3) informal consultation on the **Proposed Management of Desert Tortoise Habitat in the Northeastern Mojave Recovery Unit** on October 19, 1995. This consultation was requested by the Desert Tortoise Management Oversight Group (MOG) of the various land management agencies in the Northeastern Mojave Recovery Unit (BLM, National Park Service, USFWS) to provide information relating to future management of desert tortoise habitat in this recovery unit and; 4) informal consultation on the internal **Draft Caliente Management Framework Plan Amendment for the Management of Desert Tortoise Habitat/Draft Environmental Impact Statement** on October 9, 1997. Numerous meetings and/or telephone conversations with the USFWS have also been held to discuss the amendment. Comments and information received from these consultation and meetings were used to help develop and finalize the EIS. Formal Section 7 consultation was conducted on the Proposed Action and the USFWS provided a Biological Opinion (1-5-99-F-450), within the context of total management by all entities within the Northeastern Mojave Recovery Unit.

Coordination

Coordination, as defined in this section, refers to efforts to achieve consistency with other Federal, state, and local land use plans. Public scoping represents initial efforts to coordinate with other entities. The public meetings were attended by representatives from local and state entities. A coordination meeting was held with the Lincoln County Public Lands Commission, the Lincoln County Commissioners designated representatives, to inform them of the contents of the EIS and provide them instructions on how to provide comments on the EIS during the public review period.

The Mojave-Southern Great Basin Resource Advisory Council was provided with status updates during this planning process. They were also provided an internal review of the document prior to issuance of the draft and coordination meetings were held with them on February 27, 1998; August 10, 1998; October 16, 1998; and January 29, 1999.

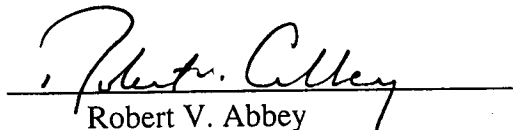
Coordination with the adjacent BLM Offices (Las Vegas, Arizona Strip, Cedar City and Tonopah), USFWS and NDOW has been ongoing throughout the planning process to ensure that the plan is consistent, to the extent possible, with the similar planning efforts that these districts are also going through. These included a few face-to-face meetings and numerous telephone conference calls.

A preliminary draft was provided in July 1997, for review to the USFWS, NDOW, National Biological Service, Clark County Government, the Mojave-Southern Great Basin Resource Advisory Council, and adjacent BLM Field Offices (Las Vegas, Arizona Strip, Cedar City, and Battle Mountain). An additional internal review was made available in February 1998, to the Mojave-Southern Great Basin Resource Advisory Council, USFWS, NDOW, and

adjacent BLM Field Offices (Las Vegas, Arizona Strip, Dixie Field Office, and Tonopah Field Station). After a period of review, additional coordination meetings were held with Lincoln County Public Lands Commission on February 12 1998, NDOW on February 26, 1998, and USFWS on February 26 and August 16, 1998. Verbal comments were received from Mojave-Southern Great Basin Resource Advisory Council, USFWS, and NDOW during the coordination meetings. These comments were used to finalize the draft Amendment/Draft Environmental Impact Statement for public review.

APPROVAL

The approval of this Record of Decision for the Caliente MFP Amendment for the management of desert tortoise habitat completes the EIS process for this plan amendment.


Robert V. Abbey
State Director, Nevada

9-19-00
Date

APPENDIX A

REASONABLE AND PRUDENT MEASURES

1. Measures shall be taken to eliminate or minimize the take of desert tortoises and destruction of tortoise habitat resulting from management of livestock grazing.
2. Measures shall be taken to eliminate or minimize take of desert tortoises and destruction of tortoise habitat resulting from management of wild horses and burros.
3. Measures shall be taken to eliminate or minimize take of desert tortoises and destruction of tortoise habitat resulting from management of recreation activities.
4. Measures shall be taken to eliminate or minimize take of desert tortoises and destruction of tortoise habitat resulting from management of fire management activities.
5. Measures shall be taken to eliminate or minimize take of desert tortoises and destruction of tortoise habitat resulting from authorization of surface-disturbing activities by the Bureau.
6. Measures shall be taken to eliminate or minimize take of desert tortoises from potential tortoise predators attracted to project areas.
7. Measures shall be implemented to educate project personnel on the desert tortoise to eliminate or minimize potential impacts to desert tortoise and its habitat.
8. Measures shall be taken to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in the biological opinion (1-5-99-F-450).

APPENDIX B

LAND TENURE ADJUSTMENTS

Introduction:

Possible land tenure adjustments by acquisition or disposal will be evaluated on a case-by-case basis. Acquisition of lands by the BLM will occur via exchanges, gifts, donations, or purchase using Land and Water Conservation funds. Disposal of federal lands may be accomplished by exchange, FLPMA Sec. 203 sales, R&PP patent, or Airport Patent. Disposal may also be a result of Special Legislation. Disposal through any of the aforementioned means will be in accordance with the appropriate *Code of Federal Regulations*.

Review Process:

It has been determined that disposal of those lands in **Tables B-1, B-2 and B-3** are in the public interest. Additionally, site specific environmental analyses will be required, and feasibility studies will be needed in the event of land exchanges.

LAND DISPOSAL CRITERIA

Lands To Be Retained:

The following lands will be retained in federal ownership:

- lands withdrawn from the public land laws;
- lands within Wilderness Study Areas;
- lands contained in designated ACECs/DWMAs;
- lands with mining claims of record, under section 314 of FLPMA.

Other Factors Considered:

The following conditions will be evaluated during the review process for proposed land transfers. The degree to which any of these conditions apply to a proposed land tenure adjustments may or may not make the lands suitable for disposal or acquisition:

- mineral values;
- location of the lands in relation to ACECs/DWMAs, WSAs or other areas of special management designations;

importance of the lands for wildlife resources, such as habitat for federally listed threatened, endangered, or special status species;

location of cultural resource sites included or eligible for inclusion to the National Register of Historic Places;

all other elements identified as Critical Elements of the Human Environment in BLM NEPA Handbook H-1790-1, Appendix 5.

LANDS SUITABLE FOR DISPOSAL

Sales, Exchanges, and R&PP Patents

The lands identified in **Table B-1** may be suitable for disposal under section 203 of FLPMA, exchange, or patent under the R&PP Act. These lands potentially meet criteria identified at 43 CFR 2710.0-3 because they are isolated and uneconomical to manage or because they have the potential to meet important public objectives. These lands are close enough to population centers to potentially receive interest from a qualified applicant for conveyance through the R&PP Act. The lands identified in this table may be suitable for disposal under special legislation if passed in the future.

Lands identified within desert tortoise habitat, but outside of designated ACECs/DWMAs, may be conveyed for community expansion and public projects. Examples may include but are not limited to, residential, commercial, and industrial expansion, municipal, county or State governmental infrastructure needs, and non-profit community service providers. Lands may be conveyed prior to having a USFWS-approved Habitat Conservation Plan (HCP) in place. It is always the responsibility of the patent holder to secure necessary permits and approvals and to comply with all applicable laws prior to any development of the land. The method of disposal or the conveyance document are not to be construed as relieving the patent holder of these responsibilities.

Unsurveyed lands must be surveyed prior to any disposal action; these lands will be noted as protracted descriptions.

All disposal actions will be made subject to valid existing rights.

Desert Land Act; Carey Act; Indian Allotment Act:

The Desert Land, Carey, and Indian Allotment Acts are nineteenth century legislation that authorizes the conversion of arid public lands to agricultural production. Agricultural development, as envisioned by that legislation, is inconsistent with the goals and objectives of this amendment to recover and delist the Mojave desert tortoise. Applications submitted under the Authority of these three Acts, within desert tortoise habitat will be considered as not being in conformance with the Land Use Plan and will not be accepted. Applications received will be returned to the applicant.

Exchange, Public Law 100-275 (formerly Aerojet) Leased Land:

The Nevada-Florida Land Exchange Authorization Act of 1988, PL 100-275, authorized the conveyance and lease of certain lands within Lincoln County to the Aerojet Corporation. The lands involved in that legislation, have the highest desert tortoise population density in Lincoln County. The patent holders have expressed their intention to develop a residential retirement community on the patented lands. Development of these lands could lead to fragmentation of desert tortoise habitat. The configuration of the leased to patented Aerojet land as it exists promotes fragmentation of habitat and poorly designed reserve areas. Adjustments in the landownership pattern will improve the design of the Kane Springs ACEC and diminish habitat fragmentation. The Bureau recognizes an opportunity to accomplish this through land exchange. Accordingly, the legislatively leased lands described in PL 100-275 will be available for disposal through exchange for other lands legislatively patented in the same Act when it can be shown that the exchange will enhance ACEC reserve design as well as improve critical desert tortoise habitat. These lands identified in Table B-3 are suitable for disposal under the BLM exchange authorities, they are not suitable for disposal under the sale authorities.

Airport Patents:

Requests for Airport Patents, pursuant to the Airport and Airway Improvement Act, on existing airports within desert tortoise habitat, will be evaluated. Lands in the vicinity of the City of Mesquite, where that municipality has identified the need for an airport, will also be evaluated for an Airport Patent or for FLPMA sales, exchanges, R&PP's or special legislation. The following must be met for any lands to be considered:

The lands are located outside of designated ACECs/DWMAs or critical habitat for desert tortoise.

The lands identified in **Table B-2** may be suitable for disposal under the Airport and Airway Improvement Act, FLPMA sales or exchanges, R&PP act or special legislation. Requests for Airport Patents, that are not existing airports, adjacent to existing airports, or located in the vicinity of the City of Mesquite (and identified by that municipality), will be considered as inconsistent with this plan amendment. The Authorized Officer shall upon receipt of a letter requesting such patent, notify in writing the Secretary of Transportation that such request would be contrary to the public interest and inconsistent with the purposes for which these lands are being managed.

POSSIBLE FUTURE ACQUISITIONS

Land acquisitions opportunities are dependent upon a landowner being willing to sell or exchange lands based on appraised land value. In the spirit of collaborative decision-making, BLM will seek local government participation and, whenever possible, concurrence in any acquisitions. Land acquisitions actions will be pursued in priority order; any

acquisitions that benefit listed species or other at risk resources will generally be a high priority. Because they are dependent upon a private sector willingness, land acquisition opportunities cannot be identified or processed on a specific time schedule. The following are land acquisitions that the BLM-Ely Field Office will pursue, should the opportunity arise.

Private lands within the proposed Kane Springs, Mormon Mesa, and Beaver Dam Slope ACECs may be acquired from willing sellers for the enhancement of desert tortoise habitat management. Lands may be acquired through exchange authorities, gifts, donations or purchase with Land and Water Conservation funds, as available or appropriate.

Acquire legislatively transferred private holdings of Harrich Investments, LLC, (formerly Aerojet Corporation lands) through the appropriate authority. These lands would be included in the Kane Springs ACEC, should they become available.

Acquire from the City of Mesquite, in an exchange, approximately 35 acres, located within T. 12 S., R. 71 E., Sec. 16, SW $\frac{1}{4}$ NW $\frac{1}{4}$ (within), in support of an exchange to facilitate future expansion of the existing regional landfill.

TABLE B-1:

Possible Sales; Exchanges; R&PP Patents.

Twp.	Range	Mer.	Section	Subdivision	Acres
6 S.	61 E.	MDM	6	Lots 5, 6 and 7, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$.	391.32
			7	N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$.	120.00
			31	S $\frac{1}{2}$ SE $\frac{1}{4}$.	80.00
7 S.	60 E.	MDM	1	E $\frac{1}{2}$. (protracted)	320.00
			12	NE $\frac{1}{4}$. (protracted)	160.00
7 S.	61 E.	MDM	5	NE $\frac{1}{4}$ SE $\frac{1}{4}$.	40.00
			6	Lots 6 and 7, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.	276.20
			7	Lots 1 and 2, E $\frac{1}{2}$ NE $\frac{1}{4}$, N$\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.	396.43
			8	S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$.	180.00
			9	W $\frac{1}{2}$, NE $\frac{1}{4}$.	480.00
			18	NE $\frac{1}{4}$ NE $\frac{1}{4}$.	40.00
			17	NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$.	200.00
9 S.	67 E.	MDM	10	E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.	40.00
			11	NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.	10.00
			15	E $\frac{1}{2}$ E $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.	60.00
11 S.	69 E.	MDM	36	All (protracted)	640.00
12 S.	70 E.	MDM	13	All. (protracted)	640.00
			24	All. (protracted)	640.00
			25	E $\frac{1}{2}$. (protracted)	320.00
			26	N $\frac{1}{2}$. (protracted)	320.00
			27	All. (protracted)	640.00
			36	NE $\frac{1}{4}$, S $\frac{1}{2}$. (protracted)	480.00
12 S.	71 E.	MDM	15	All. (protracted)	196.00
			16	All. excluding Parcel B, (protracted)	599.00
			17	All. excluding Parcel A, (protracted)	601.00
			18	All. (protracted)	640.00
			19	All. (protracted)	640.00
			20	All. (protracted)	640.00
			21	All. (protracted)	640.00
			22	All. (protracted)	195.00

TABLE B-1: Possible Sales; Exchanges; R&PP Patents.

Twp.	Range	Mer.	Section	Subdivision	Acres
17			27	All. (protracted)	195.00
			28	All. (protracted)	640.00
			29	All. (protracted)	640.00
			30	All. (protracted)	640.00
			31	All. (protracted)	640.00
			32	All. (protracted)	640.00
			33	All. (protracted)	640.00
			34	All. (protracted)	194.00
TOTAL					14,853.95

TABLE B-2: Potential Airport Patent Locations and Sales; Exchanges; R&PP Patents

Twp.	Range	Mer.	Section	Subdivision	Acres
7 S.	60 E.	MDM	1	SE¼.	160.00
			12	NE¼.	160.00
7 S.	61 E.	MDM	6	Lots 6 and 7, E½SW¼.	156.20
			7	Lots 1 and 2, E½NW¼.	156.93
12 S.	70 E.	MDM	25	W½. (protracted).	320.00
			26	S½. (protracted).	320.00
			34	All. (protracted).	640.00
			35	All. (protracted).	640.00
			36	NW¼. (protracted).	160.00
TOTAL				2713.13	

Note: Tables B-1 and B-2 list 17,566 acres identified suitable for disposal. The BO allows for disposal of 16,926 acres. Any disposal after 16,926 acres would require reconsultation with the USFWS.

Table B-3. Legislatively Leased Lands Suitable For Exchange

Twp.	Range	Mer.	Section	Subdivision	Acres
11 S.	63 E.	MDM	19	that portion lying easterly of the centerline of U.S. Hwy 93 and the western boundary of the transmission corridor, that boundary being ½ mile easterly from the centerline of U.S. Hwy 93.	1,075.00
			30		
			31		
12S.	63 E.	MDM	4	All.	640.00
			5	that portion lying easterly of the eastern boundary of the transmission corridor, that boundary being 1½ miles from the centerline of U.S. Hwy 93.	1,975.00
			9		
			16		
			21		
			28		
			33		
			6	that portion of the N½N½ lying between the centerline of U.S. Hwy 93 and the western boundary of the transmission corridor, that boundary being ½ mile easterly of the centerline of U.S. Hwy 93	
			15		640.00
			22		640.00
			23	SW¼.	160.00
			26	W½.	320.00
			27	All.	640.00
			34	All.	640.00
			35	All.	640.00
TOTAL					7,370.00

Note: Implementation of actions listed in Table B-3 require separate Section 7 consultation with the USFWS.

ACRONYMS

APA	Approved Plan Amendment
ACEC	Area of Critical Environmental Concern
AML	Appropriated Management Level
BLM	Bureau of Land Management
BO	Biological Opinion
BRD	Biological Resource Division
DWMA	Desert Wildlife Management Area
EIS	Environmental Impact Statement
EMZ	Experiment Management Zone
ESA	Endangered Species Act
FLPMA	Federal Land Policy and Management Act
HA	Herd Area
HCP	Habitat Conservation Plan
HMA	Herd Management Area
IMP	Interim Management Policy for Land and Wilderness Review
MFP	Management Framework Plan
MOG	Desert Tortoise Management Oversight Group
NDOT	Nevada Department of Transportation
NDOW	Nevada Division of Wildlife
NEPA	National Environmental Policy Act
OHV	Off-Highway Vehicle
RMP	Resource Management Plan
ROD	Record of Decision
SOP	Standard Operating Procedures
SWIP	Southwest Intertie Power Project
USFWS	United States Fish and Wildlife Service
WSA	Wilderness Study Area